

SECOND REGULAR SESSION
[CORRECTED]
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 894

90TH GENERAL ASSEMBLY

2000

4095L.11T

AN ACT

To repeal sections 53.135, 64.342, 67.547, 67.700, 71.285, 82.817, 140.110, 141.220, 141.540, 141.610, 178.870, 381.011, 381.021, 381.041, 381.051, 381.061, 381.081, 381.091, 381.101, 381.111, 381.121, 381.131, 381.141, 381.151, 381.161, 381.171, 381.181, 381.191, 381.201, 381.211, 381.221 and 381.241, RSMo 1994, sections 32.105, 32.110, 64.725, 67.582, 135.403, 135.484, 135.766, 137.073, 139.053, 140.160, 381.031, 381.231, 381.410, 381.412, 393.705, 393.715 and 620.1039, RSMo Supp. 1999, section 141.550 as enacted by house bills nos. 977 and 1608 of the second regular session of the eighty-ninth general assembly, section 141.550 as enacted by senate bill no. 778 of the second regular session of the eighty-ninth general assembly, relating to property ownership, and to enact in lieu thereof seventy new sections relating to the same subject, with penalty provisions, and an effective date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 53.135, 64.342, 67.547, 67.700, 71.285, 82.817, 140.110, 141.220, 141.540 and 141.610, RSMo 1994, sections 32.105, 32.110, 64.725, 67.582, 135.403, 135.484, 135.766, 137.073, 139.053, 140.160, 393.705, 393.715 and 620.1039, RSMo Supp. 1999, section 141.550 as enacted by house bills nos. 977 and 1608 of the second regular session of the eighty-ninth general assembly, and section 141.550 as enacted by senate bill no. 778 of the second regular session of the eighty-ninth general assembly, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 32.105, 32.110, 53.135, 64.337, 64.342, 64.725, 67.547, 67.582, 67.700, 71.285, 82.817, 100.331, 135.403, 135.484, 137.073, 137.721, 139.053, 140.110, 140.160, 141.220, 141.540, 141.550, 141.610, 261.032, 261.037, 261.038, 261.110, 393.705,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

393.715, 620.1039, 1 and 2, to read as follows:

32.105. As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

| Size of Household | Percent of State or Geographic Area Family Median Income |
|-------------------|--|
| One Person | 35% |
| Two Persons | 40% |
| Three Persons | 45% |
| Four Persons | 50% |
| Five Persons | 54% |
| Six Persons | 58% |
| Seven Persons | 62% |
| Eight Persons | 66% |

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state

of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed four million dollars from within any one fiscal year's allocation. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111, may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide

organization established for the purpose of archeological education and preservation;

(11) "Eligible farmer's market", a group of farmers, each of whom farms agricultural land located within this state which he or she rents or owns, and who have formed a group for the purpose of allowing each member farmer to sell his or her products derived from his or her farming activities to the public at a common structure or building when at least fifty percent of the costs of such structure or building are paid for by such group of farmers;

(12) "Eligible new generation cooperative", as defined in section 348.340, RSMo;

[(11)] (13) "Homeless assistance pilot project", the program established pursuant to section 32.117;

[(12)] (14) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

[(13)] (15) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not for profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964; or

(d) Contributing funds to help finance a building or structure or purchase equipment located within this state and used to sell agricultural food products or to add value to food products produced in this state by members of an eligible new generation cooperative; or contributing funds to help finance a building or structure or purchase equipment owned by a not-for-profit organization located within this state and used to sell agricultural food products or to add value to food products produced by family farms as defined in subdivision (4) of section 350.010, RSMo, or family farm corporations as defined in subdivision (5) of section 350.010, RSMo;

[(14)] (16) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

[(15)] (17) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

[(16)] (18) "Workfare renovation project", any project initiated pursuant to sections 215.340

to 215.355, RSMo.

32.110. Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, **eligible farmers' markets** or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the proposal of the business firm; except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision (12) of section 32.105, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue. The total amount of tax credit granted for programs approved pursuant to sections 32.100 to 32.125 shall not exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars in fiscal year 2000, and any subsequent fiscal year, except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117. All tax credits authorized pursuant to the provisions of sections 32.100 to 32.125 may be used as a state match to secure additional federal funding. **The total amount of tax credits allowed for programs of neighborhood organizations defined pursuant to paragraph (d) of subdivision (15) of section 32.105 is two and one-half million dollars per fiscal year for fiscal years 2002 to 2006.**

53.135. The county assessor in counties of the third and fourth [classes] **classification** shall be allowed a reimbursement for actual and necessary travel expenses incurred in the performance of his **or her** official duties within the county at the rate [of fifteen cents per mile] **allowed pursuant to subsection 10 of section 50.333, RSMo**, payable monthly upon the filing of a statement by the assessor with the county commission showing the actual and necessary miles traveled during the month, [except that the total reimbursement received by any assessor in one year shall not exceed two thousand two hundred fifty dollars,] to be paid out of the county treasury.

64.337. 1. In order to furnish security similar to that provided in state parks, the county commission of any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand containing a part

of a city with a population over three hundred fifty thousand may appoint and set the compensation of such park rangers, who shall be certified by the director of the department of public safety, as provided in chapter 590, RSMo, as it deems necessary for the prompt and proper discharge of its duties relating to the parks and recreational facilities of the county. Such certification shall include one hundred twenty hours of training in addition to that required in section 590.105, RSMo. The salaries of all park rangers appointed pursuant to this section shall be paid in the same manner as the salaries of other county employees.

2. Each park ranger appointed pursuant to this section shall:

(1) Before entering upon the discharge of his or her duties, take and subscribe an oath of office to perform his or her duties faithfully and impartially;

(2) Have full authority, including all the powers given to other peace officers of this state, to preserve the peace, make arrests, and issue citations for violations of any state law or of any rules or regulations adopted by the governing body pursuant to section 64.345, on all land, thoroughfares and waterways within the park boundaries.

3. Park rangers appointed pursuant to this section may carry firearms while engaged in the performance of their official duties only while within the park boundaries, subject to the training requirements of section 590.105, RSMo.

4. All revenues received from fines levied pursuant to subsection 2 of this section shall be deposited into the county school fund and distributed pursuant to section 166.131, RSMo.

64.342. 1. Section 64.341 to the contrary notwithstanding, the county commission of any [first class nonchartered county] **county of the first classification without a charter form of government with a population of at least one hundred fifty thousand** containing part of a city with a population over [four] **three** hundred **fifty** thousand [and bordering on a lake having at least one hundred and ten miles of shoreline] is hereby authorized to acquire, by purchase or gift, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate, in whole or in part, concession stands **or marinas** within any area contiguous to the lake which is used as a public park, playground, camping site or recreation area.

2. Such concession stands **or marinas** may offer refreshments for sale to the public using such areas and services therein relating to boating, swimming, picnicking, golfing, shooting, horseback riding, fishing, tennis and other recreational, cultural and educational uses upon such terms and under such regulations as the county may prescribe.

3. All moneys derived from the operation of concession stands **or marinas** shall be paid into the county treasury and be credited to a "Park Fund" to be established by each county authorized under subsection 1 of this section and be used and expended by the county commission for park purposes.

4. The provisions of this section authorizing counties concerning marinas shall not apply to any privately operated marina in operation prior to August 28, 2000.

64.725. 1. As an alternative to the procedures in sections 64.510 to 64.550, the county commission of any county may create a temporary county **or township** planning commission prior to an election to adopt county **or township** planning and zoning. Such planning commission shall prepare a county plan for:

(1) All areas of the county, whether such areas are incorporated or unincorporated, outside the corporate limits of any city, town or village which has adopted a city plan in accordance with the laws of this state[.]; **or**

(2) Any individual unincorporated township, separate from the rest of the county, which shall affect only that specific township.

2. The temporary county planning commission appointed pursuant to **subdivision (1) of subsection 1 of this section** shall consist of the county highway engineer, and one resident from each township of the county appointed by the county commission from the unincorporated area of the county. **The temporary township planning commission appointed pursuant to subdivision (2) of subsection 1 of this section shall consist of the highway engineer, one person appointed by the county commission and three residents of the township for which the plan is proposed.** The members of such planning commission **or commissions** shall serve until a planning commission is elected by the voters of the county **or township**, pursuant to subsection 6 of this section. All members of such temporary planning commission **or commissions** shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. Such planning commission **or commissions** shall elect a chair at the first meeting of the year to serve for such year until a new chair is elected. The county highway engineer shall be an ex officio member of such planning commission **or commissions**.

3. [The] **Each** temporary planning commission may create and adopt rules for the transaction of its business and shall keep a public record of its resolutions, transactions, findings and recommendations. [The]**Each** commission may appoint such employees as it deems necessary for its work, and may contract with planners and other consultants for such services as it may require, and may incur other necessary expenses. [The] **Each** commission shall have power to make, adopt and publish a proposal for a master plan of the county **or township** for the purpose of bringing about coordinated physical development in accordance with the present and future needs. The master plan shall be developed so as to conserve the natural resources of the county **or township**, to ensure efficient expenditure of public funds and to promote the health, safety, convenience, prosperity and general welfare of the inhabitants. Such master plan may include, among other things, studies and recommendations relative to the location, character and extent of highways, railroads, bus, streetcar and other transportation routes, bridges, public buildings,

schools, parks, parkways, forests, wildlife refuges, dams and projects affecting conservation of natural resources. Before the adoption of the plan, the commission shall hold at least one public hearing thereon, fifteen days' notice of the time and place of which shall be published in at least one newspaper having general circulation within the **affected** county **or township**, and notice of such hearing shall also be posted at least fifteen days in advance thereof in one or more public areas of the courthouse of the county. Such hearing may be adjourned from time to time. The adoption of the plan shall be by resolution carried by not less than a majority vote of the full membership of the temporary county **or township** planning commission.

4. After the temporary county **or township** planning commission has adopted a proposed plan for county **or township** planning and zoning in the county **or township**, the county commission shall submit to the voters of the county **or affected township**, the question of whether the county **or township** should adopt county **or township** planning and zoning as provided in the proposed plan. Such plan shall be available to the voters at least twenty days prior to the election. A notice stating the place or places and times for examining the plan shall be posted in one or more public areas of the courthouse of the county, and such notice shall be published in at least one newspaper of general circulation in the county **or township** at least once a week for three consecutive weeks, the last publication to be twenty days prior to the election.

5. The question for the adoption of county **or township** planning and zoning shall be submitted **to the voters of the county, or to the voters of the township, substantially** in [substantially] **either of** the following [form] **forms, depending on whether such ballot is for township planning and zoning or for county planning and zoning:**

(1) For township planning and zoning:

Shall township planning and zoning as proposed by the township planning commission be adopted in township (insert name of township)?

G YES

G NO;

(2) For planning and zoning county:

Shall county planning and zoning as proposed by the county planning commission be adopted?

G YES

G NO

6. If a majority of the votes cast **in a county or township** on the question of whether the county **or township** should adopt county **or township** planning and zoning as provided in the proposed plan are in favor of adopting the plan, then the plan shall become immediately effective **in the appropriate county or township**, and an attested copy of the official master plan shall be certified to the county commission, to the recorder of deeds, and to the clerk of each incorporated area covered by the plan or part thereof, **or to the clerk of the appropriate township, if any**, and the temporary county **or township** planning commission shall implement the plan. At the next countywide election[.]:

(1) For countywide plans, the voters in each township of the unincorporated area of the

county shall elect one member from each township to be a member of the county planning commission[.]; **or**

(2) For township plans, the voters in the township shall elect three members to the township planning commission;

and the county commission shall by order entered of record have the newly elected members of the county **or township** planning commission continue with a program of county **or township** planning and zoning. If a majority of the votes cast on the question of whether the county **or township** should adopt county **or township** planning and zoning as provided in the proposed plan are in opposition to adopting the plan, then it shall be at the discretion of the county commission whether to retain or dissolve the temporary county **or township** planning commission established pursuant to subsection 1 of this section.

7. The terms of the elected members of the county **or township** planning commission shall be four years or until the member's successor takes office; except that, the terms shall be overlapping and one-half of the members first elected, or if an uneven number one-half plus one, shall be elected for two-year terms and the remaining members shall be elected for four-year terms. The county highway engineer shall be an ex officio member of the county **or township** planning commission. The term of the county highway engineer shall be only for the duration of the engineer's tenure of official position. All members of the county **or township** planning commission shall serve as such without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties. The planning commission shall elect a chair at the first meeting of the year to serve for such year until a new chair is elected. The **county or township** commission shall have all powers granted a county planning commission appointed pursuant to sections 64.510 to 64.695.

8. If the county commission does not appoint a temporary county **or township** planning commission as provided in subsection 1 of this section, the voters of the county **or of any township** may submit a petition, signed by five percent of the number of voters in the county **or township** voting at the last gubernatorial election, calling for the appointment of a temporary county **or township** planning commission. Upon receipt of such a petition, the county commission shall appoint a temporary county **or township** planning commission as provided in subsection 1 of this section.

67.547. 1. In addition to the tax authorized by section 67.505, any county may, by a majority vote of its governing body, impose an additional county sales tax on all sales which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section shall be in addition to any and all other sales tax allowed by law; except that no ordinance or order imposing a sales tax under the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to impose such

tax.

2. The ballot of submission shall contain, but need not be limited to the following language:

Shall the county of (county's name) impose a countywide sales tax of
(insert rate) percent?

G Yes

G No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the sales tax as herein authorized unless and until the governing body of the county submits another proposal to authorize the governing body of the county to impose the sales tax under the provisions of this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. The sales tax may be imposed at a rate of **one-eighth of one percent**, one-fourth of one percent, three-eighths of one percent, or one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo.

4. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

5. In any first class county having a charter form of government and having a population of nine hundred thousand or more, the proceeds of the sales tax authorized by this section shall be distributed so that an amount equal to three-eighths of the proceeds of the tax shall be distributed to the county and the remaining five-eighths shall be distributed to the cities, towns and villages and the unincorporated area of the county on the ratio that the population of each bears to the total population of the county. The population of each city, town or village and the unincorporated area of the county and the total population of the county shall be determined on the basis of the most recent federal decennial census.

6. In any first class county having a charter form of government and having a population of nine hundred thousand or more, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

7. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments

made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

67.582. 1. The governing body of any county, except a county of the first class with a charter form of government with a population of greater than four hundred thousand inhabitants, is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing law enforcement services for such county. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax under the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section the ballot shall contain substantially the following:

Shall the county of (county's name) impose a countywide sales tax of (insert amount) for the purpose of providing law enforcement services for the county?

G Yes

G No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to enter into agreements to form a regional jail district and obligates the county to make payments from the tax authorized by this section the ballot shall contain substantially the following:

Shall the county of (county's name) be authorized to enter into agreements for the purpose of forming a regional jail district and obligating the county to impose a countywide sales tax of (insert amount) to fund dollars of the costs to construct a regional jail and to fund the costs to operate a regional jail, with any funds in excess of that necessary to construct and operate such jail to be used for law enforcement purposes?

G Yes

G No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the constitutionally required percentage of the voters voting thereon are in favor of the proposal submitted pursuant to subdivision (2) of this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If a proposal receives less than the required majority, then the governing body of the county shall have no power to impose the sales tax herein authorized unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a county from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for providing law enforcement services for such county for so long as the tax shall remain in effect. **Revenue placed in the special trust fund may also be utilized for capital improvement projects for law enforcement facilities and for the payment of any interest and principle on bonds issued for said capital improvement projects.**

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for providing law enforcement services for the county. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue under this section on behalf of any county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "County Law Enforcement Sales Tax Trust Fund". The moneys in the county law enforcement sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each county imposing a sales tax under this section, and the records shall be open to the inspection of officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during

the preceding month to the county which levied the tax; such funds shall be deposited with the county treasurer of each such county, and all expenditures of funds arising from the county law enforcement sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county. Expenditures may be made from the fund for any law enforcement functions authorized in the ordinance or order adopted by the governing body submitting the law enforcement tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

67.700. 1. Any county, as defined in section 67.724, may, by ordinance or order, impose a sales tax on all retail sales made in such county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for any capital improvement purpose designated by the county in its ballot of submission to its voters; provided, however, that no ordinance or order enacted pursuant to the authority granted by sections 67.700 to 67.727 shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary, or special election, a proposal to authorize the governing body of the county to impose a tax under the provisions of sections 67.700 to 67.727. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county of (county's name) impose a countywide sales tax at the rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of (insert capital improvement purpose)?

G YES

G NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the sales tax authorized by sections 67.700 to 67.727 unless and until the governing body of the county shall again have submitted another proposal to authorize it to impose the sales tax under the provisions of sections 67.700 to 67.727 and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by a county from the tax authorized by sections 67.700 to 67.727 which has been designated for a certain capital improvement purpose shall be deposited in a special trust fund and shall be used solely for such designated purpose. Upon the expiration of the period of years approved by the voters under subsection 2 of this section or if the tax authorized by sections 67.700 to 67.727 is repealed under section 67.721, all funds remaining in the special trust fund shall continue to be used solely for such designated capital improvement purpose **including the payment of principle and interest on any bonds issued to pay for such capital improvement.** Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

4. The sales tax may be imposed at a rate of **one-eighth of one percent**, one-fourth of one percent, three-eighths of one percent, or one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo.

5. In addition to the rates provided in subsection 4 of this section, any county of the first class without a charter form of government which adjoins a county of the first class containing part of a city containing more than three hundred fifty thousand inhabitants and which also adjoins a county of the third class having a township form of government shall also be authorized to (1) levy such sales tax at a rate of one-eighth of one percent; or (2) levy such sales tax at a rate of one-fourth of one percent in conjunction with a reduction in its property tax levy or levies for general revenues or for funding the maintenance of roads and bridges, or both, for each year in which the sales tax is imposed. Such reduction shall be in an amount sufficient to decrease the property taxes it will collect by not less than fifty percent of the sales tax revenue collected in the tax year for which the property taxes are being levied. If in the immediately preceding year a county actually collected less sales tax revenue than was projected for purposes of reducing its property tax levy or levies, the county shall adjust its property tax levy or levies for the current year to reflect such decrease. Any such county seeking voter approval of the sales tax alternative authorized in this subsection shall include in the ballot of submission authorized in subsection 2 of this section language clearly stating the appropriate percentage of the sales tax revenue shall

be used for property tax reduction as provided herein. For purposes of this subsection, the term "sales tax revenue collected" shall have the meaning provided in section 67.500.

71.285. 1. Whenever weeds **or trash**, in violation of an ordinance, are allowed to grow **or accumulate, as the case may be**, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his or their agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds **or trash** to be a nuisance and order the same to be abated within five days; and in case the weeds **or trash** are not [cut down and] removed within the five days, the marshal or other designated city official shall have the weeds [cut down and] **or trash** removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds **or trash** shall be abated within five business days after the hearing and if such weeds **or trash** are not [cut down and] removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds **or trash** pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the city of St. Louis,

where such city, town or village establishes its own procedures for abatement of weeds **or trash**, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, **or if trash is allowed to accumulate**, on the same property in violation of an ordinance more than once during the same growing season **in the case of weeds, or more than once during a calendar year in the case of trash**, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the city of St. Louis or in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, the marshal or other designated city official may order that the weeds **or trash** be abated within five business days after notice is sent to or posted on the property. In case the weeds **or trash** are not [cut down and] removed within the five days, the marshal or other designated city official may have the weeds [cut down and] **or trash** removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, **or if trash is allowed to accumulate**, on the same property in violation of an ordinance more than once during the same growing season **in the case of weeds, or more than once during a calendar year in the case of trash**, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the city of St. Louis or in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, the marshal or other designated official may, without further notification, have the weeds [cut down and] **or trash** removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification where such city establishes its own procedures for abatement of weeds **or trash**, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

82.817. 1. All owners of real estate within any city not within a county living outside such city not within a county must designate an agent to accept service of process for any violation of city building or occupancy codes or other city ordinances. The agent's name and address must be registered in the city assessor's **office** by January 1, 1991, and any changes must be reregistered by the owner [there] **thereof** within thirty days after any such change is made. Service of process upon this agent, including service of process by registered mail as authorized pursuant to section

506.150, RSMo, shall be deemed service of process upon the owner. No agent, unless he is the owner of the property, shall be liable for housing code violations relating to the property.

2. Any violation of the provisions of this section is a class B misdemeanor.

100.331. 1. Notwithstanding the provisions of section 100.330 or any other provision of law to the contrary, beginning August 28, 2000, the number of commissioners in any city not within a county shall be five; provided that, by the process of attrition the number of commissioners shall be reduced from fifteen to five by the expiration of the terms of currently serving commissioners and nonreplacement of any vacancies. Commissioners shall be appointed for a term of four years each. All commissioners shall be appointed by the mayor of any such city, shall be taxpayers of the city, and shall have resided in the city for five years immediately prior to their appointment. All vacancies shall be filled by the mayor of the city for the unexpired term, subsequent to the time the number of commissioners is reduced to five by attrition.

2. At any time, the governing body of a city not within a county may adopt a plan of consolidation to combine the planned industrial expansion authority of such city with the land reutilization authority of such city.

135.403. 1. Any investor who makes a qualified investment in a Missouri small business shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or, in the case of a qualified investment in a Missouri small business in a distressed community as defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and any investor who makes a qualified investment in a community bank or a community development corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the investment if the investment is made in a community bank or community development corporation for direct investment [into a targeted area as defined in section 135.400]. The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed thirteen million dollars and at least four million dollars of the amount authorized by this section and certified by the department of economic development shall be for investment in Missouri small businesses in distressed communities. Authorization for all or any part of this four million dollar amount shall in no way restrict the eligibility of Missouri small businesses in distressed communities, as defined in section 135.530, for the remaining amounts authorized within this section. No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment [into a targeted area] shall be certified for any one project, as defined in section 135.400. The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in which the qualified investment is made, or in any of the ten tax years

thereafter. When the qualified small business is in a distressed community, as defined in section 135.530, the tax credit may also be used to satisfy the state tax liability of the owner of the certificate that was due during each of the previous three years in addition to the year in which the investment is made and any of the ten years thereafter. No investor may receive a tax credit pursuant to sections 135.400 to 135.430 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The department of revenue shall grant tax credits in the same order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections may be transferred, sold or assigned by notarized endorsement thereof which names the transferee.

2. [The amount of qualified investments which can be made is limited so that the aggregate of all tax credits authorized pursuant to the provisions of sections 135.400 to 135.430 shall not exceed nineteen million dollars. Six million] **Five hundred thousand** dollars in tax credits shall be available **annually from the total amount of tax credits authorized by section 32.110 and subdivision 4 of subsection 2 of section 32.115** as a result of investments in community banks or community development corporations. Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax credits in any given year, eight million dollars shall be set aside for projects [involving eligible residences] **in areas described in subdivision (6) of section 135.478** and eight million dollars for projects [involving qualifying residences] **in areas described in subdivision (10) of section 135.478**. The maximum tax credit for a project consisting of multiple-unit qualifying residences in a distressed community shall not exceed three million dollars.

2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit and the value of the credit.

3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed in addition to any other state tax credits, with the exception of the historic structures rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, RSMo, which insofar as sections 135.475 to 135.487 are concerned may be claimed only in conjunction with the tax credit allowed

pursuant to subsection 4 of section 135.481. In order for a taxpayer eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant to subsection 4 of section 135.481, the taxpayer must comply with the requirements of sections 253.545 to 253.559, RSMo, and in such cases, the amount of the tax credit pursuant to subsection 4 of section 135.481 shall be limited to the lesser of twenty percent of the taxpayer's eligible costs or forty thousand dollars.

[135.766. An eligible small business, as defined in Section 44 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to any amount paid by the eligible small business to the United States Small Business Administration as a guaranty fee pursuant to obtaining Small Business Administration guaranteed financing and to programs administered by the United States Department of Agriculture for rural development or farm service agencies.]

137.073. 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school

districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books, the county clerk in all counties and the assessor of St. Louis city shall notify each political subdivision wholly or partially within the county or St. Louis city of the change in valuation, exclusive of new construction and improvements. All political subdivisions shall immediately revise the rates of levy for each purpose for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year, except that the rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor shall be limited to the actual assessment growth within the political subdivision, exclusive of new construction and improvements, but not to exceed the consumer price index or five percent, whichever is lower.

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling in the prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for the three-year period preceding such determination.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. The assessor shall certify the amount of new construction and improvements for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the

provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval.

6. Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. **Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one/one hundredth of a cent. A taxing authority shall roundup a fraction greater than or equal to five/one thousandth of one cent to the next higher one/one hundredth of a cent.** Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such

tax rate complies with Missouri law. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, **within fifteen days of the date of receipt**, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. **If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate.** The county clerk shall **immediately** forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. [The auditor's findings are advisory for the information of the taxing authority and the public.] **The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.**

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class

is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. A taxing authority, including but not limited to a township, county collector, or collector of taxes, responsible for determining and collecting the amount of residential real property tax levied in its jurisdiction, shall report such amount of tax collected by December thirty-first of each year such property is assessed, to the state tax commission. The state tax commission shall compile the tax data by county or taxing jurisdiction and submit a report to the general assembly no later than January thirty-first of the following year.

137.721. Notwithstanding the provisions of section 137.720, in all counties which

become counties of the first classification after September 1, 2000, one percent of all ad valorem taxes allocable to the county and each taxing authority within the county shall continue to be deducted from taxes collected on the first five hundred million dollars of assessed valuation, and one-half percent collected on the remainder, and deposited in the assessment fund. The one-percent fee shall be assigned among the political subdivisions by the assessor, who shall determine the percentage of total valuation in the county divided into five hundred million dollars. The collector shall retain one percent of that percentage of each political subdivision's property taxes, and one-half percent of the remainder, for the assessment fund.

139.053. 1. The governing body of any county, excluding township counties, may by ordinance or order provide for the payment of all or any part of current real and personal property taxes which are owed, at the option of the taxpayer, on an annual, semiannual or quarterly basis at such times as determined by such governing body.

2. The ordinance shall provide the method by which the amount of property taxes owed for the current tax year in which the payments are to be made shall be estimated. The collector shall submit to the governing body the procedures by which taxes will be collected pursuant to the ordinance or order. The estimate shall be based on the previous tax year's liability. A taxpayer's payment schedule shall be based on the estimate divided by the number of pay periods in which payments are to be made. The taxpayer shall at the end of the tax year pay any amounts owed in excess of the estimate for such year. The county shall at the end of the tax year refund to the taxpayer any amounts paid in excess of the property tax owed for such year. No interest shall be paid by the county on excess amounts owed to the taxpayer. Any refund paid the taxpayer pursuant to this subsection shall be an amount paid by the county only once in a calendar year.

3. If a taxpayer fails to make an installment payment of a portion of the real or personal property taxes owed to the county, then such county may charge the taxpayer interest on the [entire] amount of [such] property taxes **still** owed for that year.

4. Any governing body enacting the ordinance or order specified in this section shall first agree to provide the county collector with reasonable and necessary funds to implement the ordinance or order.

140.110. 1. The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes, as charged against the tract of land or town lot described in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.

2. Any payment for personal [or real] property taxes received by the county collector shall first be applied to any back delinquent personal taxes [and to each individual parcel of real estate]

on the back tax book before a county collector accepts any payment for all or any part of [real or] personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

140.160. 1. No proceedings for the sale of land and lots for delinquent taxes [under the provisions of] **pursuant to** this chapter, relating to the collection of delinquent and back taxes and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within three years after delinquency of such taxes, and any sale held pursuant to initial proceedings commenced within such period of three years shall be deemed to have been in compliance with the provisions of said law insofar as the time at which such sales are to be had is specified therein; provided further, that in suits or actions to collect delinquent drainage and/or levee assessments on real estate such suits or actions shall be commenced within three years after delinquency, otherwise no suit or action therefor shall be commenced, had or maintained, **except that the three-year limitation described in this subsection shall not be applicable if any written instrument conveys any real estate having a tax-exempt status, if such instrument causes such real estate to again become taxable real property and if such instrument has not been recorded in the office of the recorder in the county in which the real estate has been situated. Such three-year limitation shall only be applicable once the recording of the title has occurred.**

2. In order to enable county and city collectors to be able to collect delinquent and back taxes, the county auditor in all counties having a county auditor shall annually audit and list all delinquent and back taxes and provide a copy of such audit and list to the county collector and to the governing body of the county. A copy of the audit and list may be provided to city collectors within the county at the discretion of the county collector.

141.220. The following words, terms and definitions, when used in sections 141.210 to 141.810, shall have the meanings ascribed to them in this section, except where the text clearly indicates a different meaning:

(1) "Appraiser" shall mean an [independent] appraiser **licensed or certified pursuant to chapter 393, RSMo, who is** not an employee of the collector or collection authority;

(2) "Collector" shall mean the collector of the revenue in any county affected by sections 141.210 to 141.810;

(3) "County" shall mean any county of **the first class [one]** in this state **having a charter form of government, [except counties] any county** of the first class not having a charter form of government[, which is now operating under the provisions of sections 141.210 to 141.810, or which may hereafter elect to do so in accordance with the provisions of section 141.230] **with a population of at least one hundred fifty thousand but less than one hundred sixty thousand and any county of the first class not having a charter form of government with a population of at least eighty-two thousand but less than eighty-five thousand;**

(4) "Court" shall mean the circuit court of any county affected by sections 141.210 to 141.810;

(5) "Delinquent land tax attorney" shall mean a licensed attorney at law, employed or designated by the collector as hereinafter provided;

(6) "Land taxes" shall mean taxes on real property or real estate and shall include the taxes both on land and the improvements thereon;

(7) "Land trustees" and "land trust" shall mean the land trustees and land trust as the same are created by and described in section 141.700;

(8) "Municipality" shall include any incorporated city or town, or a part thereof, located in whole or in part within a county of class one, which municipality now has or which may hereafter contain a population of two thousand five hundred inhabitants or more, according to the last preceding federal decennial census;

(9) "Person" shall mean any individual, male or female, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver or trustee appointed by any state or federal court, trustee otherwise created, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;

(10) "School district", "road district", "water district", "sewer district", "levee district", "drainage district", "special benefit district", "special assessment district", or "park district" shall include those located within a county as such county is described in subdivision (3) of this section;

(11) "Sheriff" and "circuit clerk" shall mean the sheriff and circuit clerk, respectively, of any county affected by sections 141.210 to 141.810;

(12) "Tax bill" as used in sections 141.210 to 141.810 shall represent real estate taxes and the lien thereof, whether general or special, levied and assessed by any taxing authority;

(13) "Tax district" shall mean the state of Missouri and any county, municipality, school district, road district, water district, sewer district, levee district, drainage district, special benefit district, special assessment district, or park district, located in any municipality or county as herein described;

(14) "Tax lien" shall mean the lien of any tax bill as defined in subdivision (12) of this section;

(15) "Taxing authority" shall include any governmental, managing, administering or other

lawful authority, now or hereafter empowered by law to issue tax bills, the state of Missouri or any county, municipality, school district, road district, water district, sewer district, levee district, drainage district, special benefit district, special assessment district, or park district, affected by sections 141.210 to 141.810.

141.540. 1. In any county [having more than one courthouse] at a certain front door of [which] **whose courthouse** sales of real estate are customarily made by the sheriff under execution, the sheriff shall advertise for sale and sell the respective parcels of real estate ordered sold by him **or her** pursuant to any judgment of foreclosure by any court [under] **pursuant to** sections 141.210 to 141.810 at any of [said] **such** courthouses, but the sale of such parcels of real estate shall be held at the same front door as sales of real estate are customarily made by the sheriff under execution.

2. Such advertisements may include more than one parcel of real estate, and shall be in substantially the following form:

NOTICE OF SHERIFF'S SALE
UNDER JUDGMENT OF
FORECLOSURE OF LIENS FOR
DELINQUENT LAND TAXES

No.

In the Circuit Court of
County, Missouri.

In the Matter of Foreclosure of Liens
for Delinquent Land Taxes

Collector of Revenue of

County, Missouri,

Plaintiff,

--vs.--

Parcels of Land encumbered with
Delinquent Tax Liens,
Defendants.

WHEREAS, judgment has been rendered against parcels of real estate for taxes, interest, penalties, attorney's fees and costs with the serial numbers of each parcel of real estate, the description thereof, the name of the person appearing in the petition in the suit, and the total amount of the judgment against each such parcel for taxes, interest, penalties, attorney's fees and costs, all as set out in said judgment and described in each case, respectively, as follows: (Here set out the respective serial numbers, descriptions, names and total amounts of each judgment, next above referred to.) and,

WHEREAS, such judgment orders such real estate sold by the undersigned sheriff, to satisfy

the total amount of such judgment, including interest, penalties, attorney's fees and costs,

NOW, THEREFORE,

Public Notice is hereby given that I, Sheriff of County, Missouri, will sell such real estate, parcel by parcel, at public auction, to the highest bidder, for cash, between the hours of nine o'clock A.M. and five o'clock P.M., at the front door of the County Courthouse in, Missouri, on, the day of, **[19] 20 ..**, and continuing from day to day thereafter, to satisfy the judgment as to each respective parcel of real estate sold. If no acceptable bids are received as to any parcel of real estate, said parcel shall be sold to the Land Trust of **(insert name of County)**, Missouri.

Any bid received shall be subject to confirmation by the court.

Unofficial

.....
Sheriff of County,
Missouri.

.....
Delinquent Land Tax Attorney

Address:

First Publication

[19] 20...

3. Such advertisement shall be published four times, once a week, upon the same day of each week during successive weeks prior to the date of such sale, in a daily newspaper of general circulation regularly published in the county, qualified according to law for the publication of public notices and advertisements.

4. In addition to the provisions herein for notice and advertisement of sale, the county collector shall enter upon the property subject to foreclosure of these tax liens and post a written informational notice in any conspicuous location thereon. This notice shall describe the property and advise that it is the subject of delinquent land tax collection proceedings before the circuit court brought pursuant to sections 141.210 to 141.810 and that it may be sold for the payment of delinquent taxes at a sale to be held at **[a specific time] ten o'clock a.m.**, date and place, and shall also contain a file number and the address and phone number of the collector. If the collector chooses to post such notices as authorized by this subsection, such posting must be made not later than the fourteenth day prior to the date of the sale.

5. The collector shall, concurrently with the beginning of the publication of sale, cause to be prepared and sent by restricted, registered or certified mail with postage prepaid, a brief notice of the date, location, and time of sale of property in foreclosure of tax liens pursuant to sections 141.210 to 141.810, to the persons named in the petition as being the last known persons in whose names tax bills affecting the respective parcels of real estate described in said petition were last billed or charged on the books of the collector, or the last known owner of record, if different, and

to the addresses of said persons upon said records of the collector. The terms "restricted", "registered" or "certified mail" as used in this section mean mail which carries on the face thereof in a conspicuous place, where it will not be obliterated, the endorsement, "DELIVER TO ADDRESSEE ONLY", and which also requires a return receipt or a statement by the postal authorities that the addressee refused to receive and receipt for such mail. If the notice is returned to the collector by the postal authorities as undeliverable for reasons other than the refusal by the addressee to receive and receipt for the notice as shown by the return receipt, then the collector shall make a search of the records maintained by the county, including those kept by the recorder of deeds, to discern the name and address of any person who, from such records, appears as a successor to the person to whom the original notice was addressed, and to cause another notice to be mailed to such person. The collector shall prepare and file with the circuit clerk prior to confirmation hearings an affidavit reciting to the court any name, address and serial number of the tract of real estate affected of any such notices of sale that are undeliverable because of an addressee's refusal to receive and receipt for the same, or of any notice otherwise nondeliverable by mail, or in the event that any name or address does not appear on the records of the collector, then of that fact. The affidavit in addition to the recitals set forth above shall also state reason for the nondelivery of such notice.

6. The collector may, at his ~~or her~~ option, concurrently with the beginning of the publication of sale, cause to be prepared and sent by restricted, registered or certified mail with postage prepaid, a brief notice of the date, location, and time of sale of property in foreclosure of tax liens pursuant to sections 141.210 to 141.810, to the mortgagee or security holder, if known, of the respective parcels of real estate described in said petition, and to the addressee of [said] **such** mortgagee or security holder according to the records of the collector. The terms "restricted", "registered" or "certified mail" as used in this section mean mail which carries on the face thereof in a conspicuous place, where it will not be obliterated, the endorsement, "DELIVER TO ADDRESSEE ONLY", and which also requires a return receipt or a statement by the postal authorities that the addressee refused to receive and receipt for such mail. If the notice is returned to the collector by the postal authorities as undeliverable for reasons other than the refusal by the addressee to receive and receipt for the notice as shown by the return receipt, then the collector shall make a search of the records maintained by the county, including those kept by the recorder of deeds, to discern the name and address of any security holder who, from such records, appears as a successor to the security holder to whom the original notice was addressed, and to cause another notice to be mailed to such security holder. The collector shall prepare and file with the circuit clerk prior to confirmation hearings an affidavit reciting to the court any name, address and serial number of the tract of real estate affected by any such notices of sale that are undeliverable because of an addressee's refusal to receive and receipt for the same, or of any notice otherwise nondeliverable by mail, and stating the reason for the nondelivery of such notice.

141.550. 1. The sale shall be conducted, the sheriff's return thereof made, and the sheriff's deed pursuant to the sale executed, all as provided in the case of sales of real estate taken under execution except as otherwise provided in sections 141.210 to 141.810, and provided that such sale need not occur during the term of court or while the court is in session.

2. The following provisions shall apply to any sale **[under]** **pursuant to** this section of property located within any municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand:

(1) The sale shall be held on the day for which it is advertised, between the hours of nine o'clock a.m. and five o'clock p.m. and continued day to day thereafter to satisfy the judgment as to each respective parcel of real estate sold;

(2) The sale shall be conducted publicly, by auction, for ready money. The highest bidder shall be the purchaser unless the highest bid is less than the full amount of all tax bills included in the judgment, interest, penalties, attorney's fees and costs then due thereon. No person shall be eligible to bid at the time of the sale **[if that]** **unless such person has, no later than ten days before the sale date, demonstrated to the satisfaction of the official charged by law with conducting the sale that he or she is not** the owner of any parcel of real estate in the county which is affected by a tax bill which has been delinquent for more than six months **and is not the owner of any parcel of real property with two or more convictions based on violations occurring within a two-year period of the municipality's building or housing codes. A prospective bidder may make such a demonstration by presenting statements from the appropriate collection and code enforcement officials of the municipality.**

3. Such sale shall convey the whole interest of every person having or claiming any right, title or interest in or lien upon such real estate, whether such person has answered or not, subject to rights-of-way thereon of public utilities upon which tax has been otherwise paid, and subject to the lien thereon, if any, of the United States of America.

4. The collector shall advance the sums necessary to pay for the publication of all advertisements required by sections 141.210 to 141.810 and shall be allowed credit therefor in his **or her** accounts with the county. **[He]** **The collector** shall give credit in such accounts for all such advances recovered by him **or her**. Such expenses of publication shall be apportioned pro rata among and taxed as costs against the respective parcels of real estate described in the judgment; provided, however, that none of the costs herein enumerated, including the costs of publication, shall constitute any lien upon the real estate after such sale.

[141.550. 1. The sale shall be conducted, the sheriff's return of the sale made, and the sheriff's deed pursuant to the sale executed, all as provided in the case of sales of real estate taken under execution except as otherwise provided in sections 141.210 to 141.810, and provided that such sale need not occur during the term of court or while the court is in session.

2. The sale shall be held on the day for which it is advertised, between the hours of nine o'clock a.m. and five o'clock p.m. and continued day to day thereafter to satisfy the judgment as to each respective parcel of real estate sold.

3. The sale shall be conducted publicly, by auction, for ready money. The highest bidder shall be the purchaser unless the highest bid is less than the full amount of all tax bills included in the judgment, interest, penalties, attorney's fees and costs then due on the real estate. No person shall be eligible to bid on a parcel at the time of the sale if such person is the owner of any other parcel of real estate in the county which is affected by a delinquent tax bill.

4. Such sale shall convey the whole interest of every person having or claiming any right, title or interest in or lien upon such real estate, whether such person has answered or not, subject to rights-of-way thereon of public utilities upon which tax has been otherwise paid, and subject to the lien on the real estate, if any, of the United States of America.

5. The collector shall advance the sums necessary to pay for the publication of all advertisements required by sections 141.210 to 141.810 and shall be allowed credit therefor in the collector's accounts with the county. The collector shall give credit in such accounts for all such advances recovered by the collector. Such expenses of publication shall be apportioned pro rata among and taxed as costs against the respective parcels of real estate described in the judgment; provided, however, that none of the costs enumerated in this section, including the costs of publication, shall constitute any lien upon the real estate after such sale.]

141.610. Each **court administrator's or** sheriff's deed given pursuant to the provisions of the land tax collection law shall be presumptive evidence that the suit and all proceedings therein and all proceedings prior thereto from and including assessment of the lands affected thereby and all notices required by law were regular and in accordance with all provisions of the law relating thereto. After two years from the date of the recording of such **court administrator's or** sheriff's deed, the presumption shall be conclusive[, unless at the time that this section takes effect the two-year period since the recording of such sheriff's deed has expired, or less than six months of such period of two years remains unexpired, in which latter case the presumption shall become conclusive six months after] **pursuant to** sections 141.210 to 141.810 [take effect]. **Notwithstanding section 516.010, RSMo,** no suit to set aside or to attack the validity of any such **court administrator's or** sheriff's deed shall be commenced or maintained unless the suit is filed [prior to the time that the presumption becomes conclusive, as aforesaid] **within two years from the date the court administrator's or sheriff's deed is recorded.**

261.032. The director of the department of agriculture shall, for the use of the marketing division of the department of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the

AgriMissouri marketing program or any equivalent successor program. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

261.037. 1. There is hereby created in the state treasury for the use of the marketing division of the state department of agriculture a fund to be known as "The Missouri Agricultural Products Marketing Development Fund". The general assembly shall appropriate to the fund from the general revenue fund one million three hundred thousand dollars for fiscal year 2002, one million dollars for fiscal year 2003 and seven hundred fifty thousand dollars for fiscal years 2004 to 2006. All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the marketing division of the state department of agriculture for purposes of Missouri agricultural products marketing development as specified in this section. The unexpended balance in the Missouri agricultural products marketing development fund at the end of the biennium shall not be transferred to the ordinary revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "Citizens' Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines for the spending by the marketing division of the department of agriculture of all moneys in the Missouri agricultural products marketing development fund created pursuant to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri or successor trademark associated with Missouri agricultural products which has been approved by the general assembly, and shall advance the following objectives:

(1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;

(2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;

(3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;

(4) Providing training and technical assistance to cooperative-marketing partners.

The commission shall establish a fee structure for sellers electing to use the AgriMissouri or successor trademark associated with Missouri agricultural products. Under the fee structure: (1) A seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri or successor trademark; and (2) All sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri or successor trademark, shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri or successor trademark. All trademark fees shall be deposited to the credit of the Missouri agricultural products marketing development fund, created pursuant to section 261.037. The commission may also create two additional trademark labels to be associated with Missouri agricultural products which are certified organic products and certified family farm produced products.

3. The marketing division of the department of agriculture is authorized to promote rules consistent with the guidelines and fee structure established by the commission. No rule or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the market development division of the department of agriculture. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with

expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

5. Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of market development of the department of agriculture shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

261.038. The marketing division of the department of agriculture shall create an Internet web site for the purpose of fostering the marketing of Missouri agricultural products over the Internet. The web site shall allow consumers to place orders for Missouri agricultural products over the Internet and shall enable small companies which process Missouri agricultural products to pool products with other such small companies.

261.110. 1. The department of agriculture shall develop standards and labeling for organic farming.

2. The department of agriculture shall adopt rules to implement the provisions of this section.

3. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

393.705. As used in sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770 and sections 386.025, RSMo, and

393.295;

(2) "Commission", any joint municipal utility commission established by a joint contract under sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission under sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295, a water supply district formed under the provisions of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;

(4) "Joint contract", the contract entered into among or by and between two or more [contracting municipalities, between municipalities and public water supply districts, or between municipalities and sewer districts] **of the following contracting entities** for the purpose of establishing a commission:

(a) Municipalities;

(b) Public water supply districts;

(c) Sewer districts;

(d) Nonprofit water companies; or

(e) Nonprofit sewer companies;

(5) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing under the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of this state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

(6) "Project", the purchasing, construction, extending or improving of any revenue-producing water, sewage, gas or electric light works, heating or power plants, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution excluding retail sales, purchase, sale, exchange, transport and treatment of sewage or interchange of water, sewage, electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.715. 1. The general powers of a commission to the extent provided in section 393.710 herein and subject to the provisions of section 393.765 herein shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in

connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has obtained the approval of the public service commission prior to commencing such said sale or distribution of water;

(4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(5) Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

(6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the commission;

(7) Employ agents and employees;

(8) Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

(9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with

respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms and for such period of time as its board of directors shall determine. A commission may not sell or distribute water, gas, heat or power and energy, or sell sewage service at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 **or** 3 of this section;

(10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

(11) Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

(12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

(13) Sue and be sued in its own name;

(14) Have and use a corporate seal;

(15) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission;

(16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

(17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

(18) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the commission's purposes;

(19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

(20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

3. When a commission created by any of the contracting entities listed in subdivision (4) of section 393.705 becomes a successor to any nonprofit water

corporation, nonprofit sewer corporation or other nonprofit agency or entity organized to provide water or sewer service, the commission may continue to serve, as well as provide new service to, those locations and areas previously receiving water or sewer service from such nonprofit entity, regardless of whether or not such location receives such service outside the geographical service area of the contracting entities forming such commission; provided that such locations and areas previously receiving water and sewer service from such nonprofit entity are not located within:

(a) Any county of the first classification with a population of more than six hundred thousand and less than nine hundred thousand;

(b) The boundaries of any sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution; or

(c) The certificated area of a water or sewer corporation that is subject to the jurisdiction of the public service commission.

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41.

2. **For tax years beginning on or after January 1, [1994,] 2001, the director of the department of economic development may authorize** a taxpayer [may be allowed] **to receive** a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, [if approved by the director of the department of economic development,] in an amount up to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director of the department of economic development, within this state during the taxable year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years. [In order to receive a tax credit pursuant to this section, certification by the director of the department of economic development shall be required as proof that the taxpayer made qualified research expenses during the taxable year.]

3. The director of economic development shall prescribe the manner in which the tax credit may be [claimed] **applied for**. The tax credit [allowed] **authorized** by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit

and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application for [claiming] tax credits [allowed in] **authorized by the director pursuant to** subsection 2 of this section shall be made [in] **no later than the end of** the taxpayer's tax period immediately following the tax period for which the credits are being claimed.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996, and ending not later than December 31, 1999. Such taxpayer shall file, by December 31, 2001, an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer, and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

5. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

[4.] **6.** The aggregate of all tax credits authorized pursuant to this section shall not exceed [ten] **nine million seven hundred thousand** dollars in any [taxable] year.

Section 1. Any person who resides within the boundary of a public water supply district located in any county of the first classification with a population of more than eighty thousand and less than eighty-three thousand inhabitants and who is unable to receive services from such district due to the district's failure to provide such services may elect to be removed from such district by sending a written and signed request for removal via certified mail to the district. The district shall, upon receipt of such

request, remove such resident from the district. If the resident elects to be removed from the district, the resident shall compensate the district for any costs incurred by the district for such resident's removal from the district and for any attempts by the district to provide service to such resident prior to the certified date that the district received the request for removal.

Section 2. All corrective action plans approved by the department pursuant to sections 260.350 to 260.430, RSMo, shall require the department, upon notice by the owner or operator that the approved plan has been completed, to verify within ninety days that the corrective action plan has been complied with and completed. The department shall issue a letter within thirty business days to the owners or operators certifying the completion and compliance.

Section B. Sections 135.403 and 620.1039 of this act shall become effective January 1, 2001.

Section C. Section 178.870, RSMo 1994, is repealed and one new section enacted in lieu thereof, to be known as section 178.870, to read as follows:

178.870. Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion **five hundred million** dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having ~~[five]~~ **seven** hundred **fifty** million dollars but less than one billion **five hundred million** dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having ~~[two]~~ **five** hundred ~~[fifty]~~ million dollars but less than ~~[five]~~ **seven** hundred **fifty** million dollars assessed valuation; forty cents on the hundred dollars assessed valuation in districts having less than ~~[two]~~ **five** hundred ~~[fifty]~~ million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts.

Section D. Sections 381.011, 381.021, 381.041, 381.051, 381.061, 381.081, 381.091, 381.101, 381.111, 381.121, 381.131, 381.141, 381.151, 381.161, 381.171, 381.181, 381.191, 381.201, 381.211, 381.221 and 381.241, RSMo 1994, and sections 381.031, 381.231, 381.410 and

381.412, RSMo Supp. 1999, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 381.003, 381.009, 381.015, 381.018, 381.022, 381.025, 381.028, 381.032, 381.035, 381.038, 381.042, 381.045, 381.048, 381.052, 381.055, 381.058, 381.062, 381.065, 381.068, 381.072, 381.075, 381.078, 381.085, 381.088, 381.092, 381.095, 381.098, 381.102, 381.105, 381.108, 381.112, 381.115, 381.118, 381.122, 381.125, 381.410 and 381.412, to read as follows:

381.003. 1. Sections 381.003 to 381.125 shall be known and may be cited as the "Missouri Title Insurance Act".

2. Sections 381.009 to 381.048 shall apply to all persons engaged in the business of title insurance in this state. Sections 381.052 to 381.112 shall apply to all title insurers engaged in the business of title insurance in this state. Sections 381.115 to 381.125 shall apply to all title agencies engaged in the business of title insurance in this state.

3. Except as otherwise expressly provided in this chapter and except where the context otherwise requires, all provisions of the insurance code applying to insurance and insurance companies generally shall apply to title insurance, title insurers and title agents.

381.009. As used in this chapter, the following terms mean:

(1) "Abstract of title" or "abstract", a written history, synopsis or summary of the recorded instruments affecting the title to real property;

(2) "Affiliate", a specific person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(3) "Affiliated business", any portion of a title insurance agency's business written in this state that was referred to it by a producer of title insurance business or by an associate of the producer, where the producer or associate, or both, have a financial interest in the title agency;

(4) "Associate", any:

(a) Business organized for profit in which a producer of title business is a director, officer, partner, employee or an owner of a financial interest;

(b) Employee of a producer of title business;

(c) Franchisor or franchisee of a producer of title business;

(d) Spouse, parent or child of a producer of title insurance business who is a natural person;

(e) Person, other than a natural person, that controls, is controlled by, or is under common control with, a producer of title business;

(f) Person with whom a producer of title insurance business or any associate of

the producer has an agreement, arrangement or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to that producer or associate for the referral of business;

(5) "Bona fide employee of the title insurer", an individual who devotes substantially all of his or her time to performing services on behalf of a title insurer and whose compensation for those services is in the form of salary or its equivalent paid by the title insurer;

(6) "Control", including the terms "controlling", "controlled by" and "under common control with", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent or more of the voting securities of another person. This presumption may be rebutted by showing that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(7) "County" or "counties" includes any city not within a county;

(8) "Direct operations", that portion of a title insurer's operations which are attributable to business written by a bona fide employee;

(9) "Director", the director of the department of insurance, or the director's representatives;

(10) "Escrow", written instruments, money or other items deposited by one party with a depository, escrow agent or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(11) "Escrow, settlement or closing fee", the consideration for supervising or handling the actual execution, delivery or recording of transfer and lien documents and for disbursing funds;

(12) "Financial interest", a direct or indirect legal or beneficial interest, where the holder is or will be entitled to five percent or more of the net profits or net worth of the entity in which the interest is held;

(13) "Foreign title insurer", any title insurer incorporated or organized pursuant to the laws of any other state of the United States, the District of Columbia, or any other jurisdiction of the United States;

(14) "Geographically indexed or retrievable", a system of keeping recorded documents which includes as a component a method for discovery of the documents by:

(a) Searching an index arranged according to the description of the affected land;

or

(b) An electronic search by description of the affected land;

(15) "Net retained liability", the total liability retained by a title insurer for a single risk, after taking into account any ceded liability and collateral, acceptable to the director, and maintained by the insurer;

(16) "Non-U.S. title insurer", any title insurer incorporated or organized pursuant to the laws of any foreign nation or any province or territory;

(17) "Premium", the consideration paid by or on behalf of the insured for the issuance of a title insurance policy or any endorsement or special coverage. It does not include consideration paid for settlement or escrow services or noninsurance-related information services;

(18) "Producer", any person, including any officer, director or owner of five percent or more of the equity or capital of any person, engaged in this state in the trade, business, occupation or profession of:

(a) Buying or selling interests in real property;

(b) Making loans secured by interests in real property; or

(c) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with the interest as security;

(19) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed pursuant to the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the director;

(20) "Referral", the directing or the exercising of any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral;

(21) "Search", "search of the public records" or "search of title", a search of those records established by the laws of this state for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge;

(22) "Security" or "security deposit", funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage;

(23) "Subsidiary", an affiliate controlled by a person directly or indirectly through one or more intermediaries;

(24) "Title agency" means an authorized person who issues title insurance on behalf of a title insurer. An attorney licensed to practice law in this state who issues title insurance as a part of his or her law practice, but does not maintain or operate a title insurance business separate from such law practice is not a title agency;

(25) "Title agent" or "agent", an attorney licensed to practice law in this state who issues title insurance as part of his or her law practice, but who is not affiliated with or acting on behalf of a title agency, or an authorized person who, on behalf of a title agency or on behalf of a title agent not affiliated with a title agency, performs one or more of the following acts in conjunction with the issuance of a title insurance commitment or policy:

(a) Determines insurability, based upon a review of a search of title;

(b) Performs searches;

(c) Handles escrows, settlements or closings; or

(d) Solicits or negotiates title insurance business;

(26) "Title insurance business" or "business of title insurance":

(a) Issuing as insurer or offering to issue as insurer a title insurance policy;

(b) Transacting or proposing to transact by a title insurer any of the following activities when conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy:

a. Soliciting or negotiating the issuance of a title insurance policy;

b. Guaranteeing, warranting or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units and proprietary leases and for all liens or charges affecting the same;

c. Handling of escrows, settlements or closings;

d. Executing title insurance policies;

e. Effecting contracts of reinsurance; or

f. Abstracting, searching or examining titles;

(c) Guaranteeing, warranting or insuring searches or examinations of title to real property or any interest in real property;

(d) Guaranteeing or warranting the status of title as to ownership of or liens on real property by any person other than the principals to the transaction;

(e) Promising to purchase or repurchase for consideration an indebtedness because of a title defect, whether or not involving a transfer of risk to a third person; or

(f) Promising to indemnify the holder of a mortgage or deed of trust against loss from the failure of the borrower to pay the mortgage or deed of trust when due if the property fails to yield sufficient proceeds upon foreclosure to satisfy the debt, when one or both of the following conditions exist:

a. The security has been impaired by the discovery of a previously unknown property interest in favor of one who is not liable for the payment of the mortgage or deed of trust; or

b. Perfection of the position of the mortgage or deed of trust which was assured to exist cannot be obtained, notwithstanding timely recordation with the recorder of deeds of the county in which the property is located; or

(g) Doing or proposing to do any business substantially equivalent to any of the activities listed in this subdivision in a manner designed to evade the provisions of this chapter;

(27) "Title insurance commitment" or "commitment", a preliminary report, commitment or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions and other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy. A title insurance commitment is not an abstract of title;

(28) "Title insurance policy" or "policy", a contract insuring or indemnifying owners of, or other persons lawfully interested in, real property or any interest in real property, against loss or damage arising from any or all of the following conditions existing on or before the policy date and not excepted or excluded:

(a) Title to the estate or interest in land being otherwise than as stated in the policy;

(b) Defects in or liens or encumbrances on the insured title;

(c) Unmarketability of the insured title;

(d) Lack of legal right of access to the land;

(e) Invalidity or unenforceability of the lien of an insured mortgage;

(f) The priority of a lien or encumbrance over the lien of any insured mortgage;

(g) The lack of priority of the lien of an insured mortgage over a statutory lien for services, labor or material;

(h) The invalidity or unenforceability of an assignment of the insured mortgage;

or

(i) Rights or claims relating to the use of or title to the land;

(29) "Title insurer" or "insurer", a company organized pursuant to laws of this state for the purpose of transacting the business of title insurance and any foreign or non-U.S. title insurer licensed in this state to transact the business of title insurance;

(30) "Title plant", a set of records encompassing at least the most recent forty-five years, consisting of documents, maps, surveys or entries affecting title to real property or any interest in or encumbrance on the property, which have been filed or recorded in the jurisdiction for which the title plant is established or maintained. The records in the title plant shall be geographically indexed or retrievable as to those records containing a legal description of affected land, and otherwise by name of affected person;

(31) "Underwrite", the authority to accept or reject risk on behalf of the title insurer.

[381.011. 1. Sections 381.011 to 381.241 shall be known and may be cited as the "Missouri Title Insurance Act".

2. The purpose of sections 381.011 to 381.241 is to provide the state of Missouri with a comprehensive body of law for the effective regulation and supervision of title insurance business transacted within this state in response to the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.]

381.015. 1. When a title insurance commitment issued by a title insurer, title agency or title agent includes an offer to issue an owner's policy covering the resale of owner-occupied residential property, the commitment shall incorporate the following statement in bold type:

"Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered."

2. A title insurer, title agency or title agent issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real estate securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the director, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the mortgage-lender, and that the policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased. The notice shall explain what a title policy insures against and what possible exposures exist for the

purchaser-mortgagor that could be insured against through the purchase of an owner's policy. The notice shall also explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages are or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the effective date of the policy.

3. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.

381.018. 1. The title insurer shall not allow the issuance of its commitments or policies by a title agency or title agent not affiliated with a title agency unless there is in force a written contract between the parties which sets forth the responsibilities of each party or, where both parties share responsibility for particular functions, specifies the division of responsibilities.

2. For each title agency or title agent not affiliated with a title agency under contract with the insurer, the title insurer shall have on file a statement of financial condition, of each title agency or title agent as of the end of the previous calendar or fiscal year setting forth an income statement of business done during the preceding year and a balance sheet showing the condition of its affairs as of the close of the prior year, certified by the agency or agent as being a true and accurate representation of the agency's or agent's financial condition. The statement shall be filed with the insurer no later than the date the agency's or agent's federal income tax return for the same year is filed. Attorneys actively engaged in the practice of law, in addition to that related to title insurance business, are exempt from the requirements of this subsection.

3. The title insurer shall conduct reviews of the underwriting, claims and escrow practices of its agencies and agents which shall include a review of the agency's or agent's policy blank inventory and processing operations. If any such title agency or title agent does not maintain separate bank or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title agency or title agent not affiliated with a title agency. The title insurer shall conduct a review of each of its agencies and agents at least triennially commencing January first of the year first following the effective date of sections 381.003 to 381.125.

4. Within thirty days of executing or terminating a contract with a title agency or title agent not affiliated with a title agency, the insurer shall provide notification of the appointment or termination and the reason for termination to the director. Notices of appointment of a title agency or title agent shall be made on a form promulgated by the director.

5. The title insurer shall maintain an inventory of all policy numbers allocated to each title agency or title agent not affiliated with a title agency.

6. The title insurer shall have on file proof that the title agency or title agent is licensed by this state.

7. The title insurer shall establish the underwriting guidelines and, where applicable, limitations on title claims settlement authority to be incorporated into contracts with its title agencies and title agents not affiliated with a title agency.

8. Each violation of any provision of this section is a class B violation as that term is defined in section 381.045.

[381.021. 1. Sections 381.011 to 381.241 shall apply to all persons engaged in the business of title insurance in this state.

2. Except as otherwise expressly provided in sections 381.011 to 381.241, and except where the context otherwise requires, all provisions of the insurance laws of this state applying to insurance and insurance companies generally shall apply to title insurance and title insurance companies. No law of this state enacted after September 28, 1987, that is inconsistent with the provisions of such sections shall be applicable to the business of title insurance unless such law specifically states that it is to be applicable to the business of title insurance.

3. Nothing in sections 381.011 to 381.241 shall be construed to authorize the practice of law by any person who is not duly admitted to practice law in this state nor shall it be construed to authorize the director to regulate the practice of law or the sale of real estate.]

381.022. 1. A title insurer, title agency or title agent not affiliated with a title agency may operate as an escrow, security, settlement or closing agent, provided that:

(1) All funds deposited with the title insurer, title agency or title agent not affiliated with a title agency in connection with any escrow, settlement, closing or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the next business day after receipt, in accordance with the following requirements:

(a) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit or closing in the records of the title insurer, title agency or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in accordance with the terms of the individual instructions or agreements under which the funds were accepted; and

(b) The funds shall be applied only in accordance with the terms of the individual

instructions or agreements under which the funds were accepted;

(2) Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying under what conditions and to whom such funds may be disbursed or pursuant to an order of a court of competent jurisdiction;

(3) Funds held in a security deposit account shall be disbursed only pursuant to a written agreement specifying:

(a) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(b) The duties of the title insurer, title agency or title agent not affiliated with a title agency with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(c) Any other provisions the director may require;

(4) Any interest received on funds deposited in connection with any escrow, settlement, security deposit or closing may be retained by the title insurer, title agency or title agent not affiliated with a title agency as compensation for administration of the escrow or security deposit, unless the instructions for the funds or a governing statute provides otherwise;

(5) Each violation of this subsection is a class A violation as that term is defined in section 381.045.

2. The title agency or title agent not affiliated with an agency shall cooperate with its underwriters in the conduct by the underwriters of reviews of the agency's or agent's escrow, settlement, closing and security deposit accounts. The title insurer shall provide a copy of the report of each such review it performs to the director. The director may promulgate rules setting forth the minimum threshold level at which a review would be required, the standards thereof and the form of report required.

3. If the title agency or title agent not affiliated with an agency is appointed by two or more title insurers and maintains fiduciary trust accounts in connection with providing escrow or closing settlement services, the title agency or title agent shall allow each title insurer reasonable access to the accounts and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title agency or title agent.

4. (1) Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction in which a title insurer, title agency or title agent not affiliated with a title agency is the settlement agent, provided all parties to whom payment will become due upon such recording consent thereto in writing;

(2) The settlement agent shall record all deeds and security instruments for real estate closings handled by it within three business days after completion of all conditions precedent thereto;

(3) Each violation of this subsection is a class C violation as that term is defined in section 381.045.

381.025. 1. A title insurer, title agency, title agent or other person shall not give or receive, directly or indirectly, any consideration for the referral of title insurance business or escrow or other service provided by a title insurer, title agency or title agent. Each violation of this subsection is a class A violation as that term is defined in section 381.045.

2. Any title insurer, title agency or title agent doing business in the same county as a title insurer, title agency or title agent who may be in violation of the prohibitions or limitations of this section shall have standing to seek injunctive relief against the violating title insurer, title agency or title agent in the event the department declines or fails to enforce this section within forty-five days following receipt of written notice of such violation. In any action pursuant to this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.

381.028. No title insurer, title agency or title agent shall participate in any transaction in which it knows that a producer or other person requires, directly or indirectly, or through any trustee, director, officer, agent, employee or affiliate, as a condition, agreement or understanding to selling or furnishing any other person a loan, or loan extension, credit, sale, property, contract, lease or service, that the other person shall place a title insurance policy of any kind with the title insurer or through a particular title agency or agent. Each violation of this section is a class A violation as that term is defined in section 381.045.

[381.031. As used in sections 381.011 to 381.241, the following terms mean:

(1) "Alien title insurer", any title insurer incorporated or organized under the laws of any foreign nation or any province or territory thereof;

(2) "Applicant", a person, whether or not a prospective insured, who applies to a title insurer or title agent, or agency for a title insurance policy and who, at the time of the application, is not a title agent or agency;

(3) "Approved attorney", an attorney at law who is not an agent or employee of a title insurer, and whose certification as to status of title a title insurer is willing to accept as the basis for issuance of its title insurance policy;

(4) "Charge", any fee billed by a title agent, agency, or title insurer for the

performance of services other than fees that fall within the definition of premium in this section. "Charge" includes, but is not limited to, fees for document preparation, fees for the handling of escrows, settlements, or closing, and fees for services commenced but not completed. "Charge" does not include fees collected by a title insurer, title agency, or title agent in an escrow, settlement or closing when the fees are limited to the amount billed for services rendered by an entity independent of the title insurer, title agent, or agency;

(5) "Controlled business", any portion of a title insurer's, title agency's or title agent's business of title insurance in this state, referred to it by any producer of title business or by any associate of such producer, where the producer of title business, the associate, or both, have a financial interest in the title insurer, title agency, or title agent to which business is referred;

(6) "Director", the director of the department of insurance;

(7) "Domestic title insurer", a title insurer organized under the laws of this state;

(8) "Escrow, settlement or closing fee", the consideration for supervising the actual execution, delivery or recording of transfer and lien documents and for disbursing funds;

(9) "Financial interest", any interest, legal or beneficial, that entitles the holder directly or indirectly to one percent or more of the net profits or net worth of the entity in which the interest is held, but does not include payments of principal or interest made to a mortgage holder of the title agency;

(10) "Foreign title insurer", any title insurer organized under the laws of any other state of the United States, the District of Columbia, or any other jurisdiction of the United States;

(11) "Gross operating revenue", all amounts received by a title insurer, title agency, or title agent from premiums and charges;

(12) "Net retained liability", the total liability retained by a title insurer for a single risk, after taking into account the deduction for ceded reinsured liability, if any;

(13) "Person", any natural person, partnership, association, cooperative, corporation, trust, or other legal entity;

(14) "Premium", risk rates charged to the insured;

(15) "Producer of title business" or "producer", any person, including any officer, director, or owner of five percent or more of the equity or capital of any person, engaged in this state in the trade, business, occupation or profession of:

(a) Buying or selling interests in real property;

(b) Making loans secured by interests in real property; or

(c) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with such interest as security;

(16) "Single risk", the insured amount of any title insurance policy, except that

where two or more title insurance policies are issued simultaneously covering different estates in the same real property, "single risk" means the sum of the insured amounts of all such title insurance policies. Any title insurance policy insuring a mortgage interest, a payment under which reduces the insured amount of a fee or leasehold title insurance policy, shall be excluded in computing the amount of a single risk to the extent that the insured amount of the mortgagee title insurance policy does not exceed the insured amount of the fee or leasehold title insurance policy;

(17) "Title agent" or "title insurance agent", any authorized agent of a title insurer or representative of the title agent or agency, who acts as a title agent in the solicitation of, negotiation for, or procurement or making of any title insurance contract. The following persons are not title agents or title insurance agents:

(a) Approved attorneys;

(b) Salaried officers or employees of title insurers, title agents or title insurance agencies who do not do any of the following:

- a. Establish premiums for policies of title insurance;
- b. Determine insurability; or
- c. Issue commitments, policies or other contracts of title insurance;

(18) "Title insurance agency" or "agency", any individual transacting or doing business under any name other than his true name, any partnership, unincorporated association or corporation, transacting or doing business with the public or title insurance companies as a title insurance agent;

(19) "Title insurance business" or "business of title insurance" means:

(a) Issuing as insurer or offering to issue as insurer a title insurance policy;

(b) Transacting or proposing to transact by a title insurer, title agency, or title agent any of the following activities when conducted or performed by a title agent, title agency, or title insurer in conjunction with the issuance of its title insurance:

- a. Soliciting or negotiating the issuance of a title insurance policy;
- b. Guaranteeing, warranting, or otherwise insuring the correctness of title searches;
- c. Handling of escrows, settlements, or closings;
- d. Execution of title insurance policies, reports, commitments, binders, and endorsements;

- e. Effecting contracts of reinsurance; or
- f. Abstracting, searching, or examining titles;

(c) Transacting by a title insurer, title agent, or agency of matters subsequent to the issuance of a title insurance policy and arising out of it; or

(d) Doing or proposing to do any business in substance equivalent to any of the foregoing in order to evade any provision of this act;

(20) "Title insurance policy" or "policy", a contract insuring or indemnifying against loss or damage arising from any or all of the following:

- (a) Defects in or liens or encumbrances on the insured title;
- (b) Unmarketability of the insured title; or
- (c) Invalidity or unenforceability of liens or encumbrances on the stated property.

"Title insurance policy" does not include a preliminary report, binder, commitment, or abstract;

(21) "Title insurer", a company organized under laws of this state for the purpose of transacting as insurer the business of title insurance and any foreign or alien title insurer engaged in this state in the business of title insurance as insurer;

(22) "Title plant", an index of the records of a county which imparts constructive notice to purchasers of real property, which encompasses at least the most recent forty-five years. The index shall be kept geographically as to those records containing a legal description of affected land, and otherwise by name of affected person.]

381.032. 1. No title insurer, may charge any rates regulated by the state after the effective date of sections 381.003 to 381.125, except in accordance with the premium rate schedule and manual filed with and approved by the director in accordance with applicable statutes and regulations governing rate filings. Premium rate schedules in effect prior to the effective date of sections 381.003 to 381.125 may be used until new rate schedules have been approved by the director. Title insurers shall file their premium rate schedules within thirty days after the effective date of sections 381.003 to 381.125. Each violation of this subsection is a class C violation as that term is defined in section 381.045. Nothing in this section shall prevent an agent not affiliated with an agency from charging for services that constitute the practice of law at the customary fee charged by such person for legal services. To the extent the premium fails to compensate the agent at such rate, the agent may render an additional bill for such services on behalf of the agent's law practice or law firm. The acceptance of any part of the premium by the law firm of said agent shall not be a violation of any provision of the Missouri Title Insurance Act or the general insurance statutes, regulations or bulletins regarding payment of commissions to nonlicensed entities.

2. The director may establish rules, including rules providing statistical plans, for use by all title insurers, title agencies and title agents in the recording and reporting of revenue, loss and expense experience in such form and detail as is necessary to aid the director in the establishment of rates and fees.

3. The director may require that the information provided pursuant to this section be verified by oath of the insurer's or agency's president or vice president or secretary or actuary, as applicable. The director may further require that the

information required pursuant to this section be subject to an audit conducted at the expense of the title insurer or title agency by an independent certified public accountant. The director shall have the authority to establish a minimum threshold level at which an audit would be required.

4. Information filed with the director relating to the experience of a particular agency shall be kept confidential unless the director finds it in the public interest to disclose the information required of title insurers or title agencies pursuant to this section. Prior to any such disclosure of confidential information, the director shall provide notice and opportunity to be heard to the title insurers and title agencies who would be affected thereby.

381.035. No title insurance company, title agency or title agent shall willfully withhold information from, or knowingly give false or misleading information to the director, or to any title insurance rating organization, of which the title insurance company is a member or subscriber, which will affect the rates or fees chargeable pursuant to this chapter. Each violation of this section is a class A violation as that term is defined in section 381.045.

381.038. 1. Evidence of the examination of title and determination of insurability generated by a title insurer engaged in direct operations, title agency or title agent shall be preserved and maintained by such insurer, agency or agent for as long as appropriate to the circumstances but, in no event less than fifteen years after the title insurance policy has been issued.

2. Records relating to escrow and security deposits shall be preserved and retained by a title insurer engaged in direct operations, title agency and title agent for as long as appropriate to the circumstances but, in no event less than five years after the escrow or security deposit account has been closed.

3. This section shall not apply to a title insurer acting as coinsurer if one of the other coinsurers has complied with this section.

4. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.

[381.041. 1. No person other than a domestic, foreign, or alien title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.

2. Each title insurer may engage in the title insurance business in this state if licensed to do so by the director and provide any other service related or incidental to the sale and transfer or financing of property.

3. A title insurer shall maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred

thousand dollars.]

381.042. 1. The director may issue rules, regulations and orders necessary to carry out the provisions of this chapter.

2. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

381.045. 1. If the director determines that the title insurer or any other person has violated this chapter, or any regulation or order promulgated thereunder, after notice and opportunity to be heard, the director may order:

(1) For each violation a monetary penalty which shall take into account the harm the violation caused or could have caused or potential harm to the public and which shall not exceed:

- (a) One thousand dollars per violation for a class A violation;**
- (b) Five hundred dollars per violation for a class B violation; and**
- (c) One hundred dollars per violation for a class C violation;**
- (2) Revocation or suspension of the title insurer's license; or**
- (3) Both monetary penalty and revocation or suspension.**

2. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the insurance code.

3. Nothing contained in this chapter is intended to or shall in any other manner limit or restrict the rights of policyholders, claimants and creditors.

381.048. The director may bring an action in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.

[381.051. 1. A title insurer, before issuing any title insurance policy covering property located in this state, shall deposit with the director of the department of insurance, hereinafter referred to as the director, a sum of four hundred thousand dollars, which shall be held for the security and protection of the holders or beneficiaries under its title insurance policies.

2. Assets deposited pursuant to this section may, with the approval of the director, be exchanged from time to time for other assets that qualify under subsection 3 of this section.

3. The depositing title insurer shall receive the income, interests, and dividends on any assets deposited. The deposit required under this section may be made in legal tender or in investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus. For capital and reserve deposits, sums deposited pursuant to this section shall be valued at their market value.

4. A title insurer that has deposited assets pursuant to this section may, with the approval of the director, withdraw any part of the assets so deposited. If any such title insurer continues to engage in the business of title insurance, it shall not be permitted to withdraw assets that would reduce the amount of its deposits below the amount required by subsection 1 of this section.

5. In lieu of such a deposit maintained in this state, the director shall accept a certificate or certificates in proper form of the public officer or officers having general supervision of title insurers in its state of domicile to the effect that a deposit or total deposits, in an equal or greater amount, in classes of investment authorized in such state, are being maintained for like purposes in public custody or control pursuant to the laws of such state on behalf of the title insurer.

6. If sections 381.011 to 381.241 require a greater amount of capital and surplus or deposits than that required of a title insurer prior to September 28, 1987, such title insurer shall have three years after September 28, 1987, to comply with any such increased requirement.

7. The provisions of sections 375.950 to 375.990, RSMo, shall apply to the impairment of capital, liquidation, and rehabilitation of title insurers.]

381.052. No person other than a domestic, foreign or non-U.S. title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.

381.055. Subject to the exceptions and restrictions contained in this chapter, a title insurer shall have the power to:

- (1) Do only title insurance business;**
- (2) Reinsure title insurance policies; and**
- (3) Perform ancillary activities, unless prohibited by the director, including examining titles to real property and any interest in real property and procuring and furnishing related information and information about relevant personal property, when not in contemplation of, or in conjunction with, the issuance of a title insurance policy.**

381.058. 1. No insurer that transacts any class, type or kind of business other than title insurance shall be eligible for the issuance or renewal of a license to transact the business of title insurance in this state nor shall title insurance be transacted, underwritten or issued by any insurer transacting or licensed to transact any other class, type or kind of business.

2. A title insurer shall not engage in the business of guaranteeing payment of the principal or the interest of bonds or mortgages.

3. (1) Notwithstanding subsection 1 of this section, and to the extent such coverage is lawful within this state, a title insurer is expressly authorized to issue

closing or settlement protection to a proposed insured upon request if the title insurer issues a commitment, binder or title insurance policy. Such closing or settlement protection shall conform to the terms of coverage and form of instrument as required by the director and may indemnify a proposed insured solely against loss of settlement funds only because of the following acts of a title insurer's named title agency or title agent:

- (a) Theft of settlement funds; and**
- (b) Failure to comply with written closing instructions by the proposed insured when agreed to by the title agency or title agent relating to title insurance coverage;**
- (2) The director may promulgate or approve a required charge for providing the coverage;**
- (3) A title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.**

[381.061. 1. The net retained liability of a title insurer for a single risk on property located in this state, whether assumed directly or as reinsurance, may not exceed fifty percent of the sum of its total surplus to policyholders and unearned premium reserve, less the admitted asset value assigned to title plants, as shown in the most recent annual statement of the title insurer on file in the office of the director.

2. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.]

381.062. Before being licensed to do an insurance business in this state, a title insurer shall establish and maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred thousand dollars.

381.065. 1. The net retained liability of a title insurer for a single risk in regard to property located in this state, whether assumed directly or as reinsurance, shall not exceed the aggregate of fifty percent of surplus as regards policyholders plus the statutory premium reserve less the company's investment in title plants, all as shown in the most recent annual statement of the insurer on file with the director.

2. For purposes of this chapter:

(1) A single risk shall be the insured amount of any title insurance policy, except that, where two or more title insurance policies are issued simultaneously covering different estates in the same real property, a single risk shall be the sum of the insured amounts of all the title insurance policies; and

(2) A policy under which a claim payment reduces the amount of insurance under one or more other title insurance policies shall be included in computing the single risk

sum only to the extent that its amount exceeds the aggregate amount of the policy or policies whose amount of insurance is reduced.

3. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on properties located in this state may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least eight hundred thousand dollars.

4. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.

381.068. In determining the financial condition of a title insurer doing business pursuant to this chapter, the general investment provisions of sections 376.300 to 376.305, RSMo, shall apply; except that, an investment in a title plant or plants in an amount equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate amount of the investment shall not exceed fifty percent of surplus to policyholders, as shown on the most recent annual statement of the title insurer on file with the director.

381.072. In determining the financial condition of a title insurer doing business pursuant to this chapter, the general provisions of the insurance code requiring the establishment of reserves sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense, shall apply; except that, a title insurer shall establish and maintain:

(1) (a) A known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims and allocated loss adjustment expenses arising under title insurance policies for which the title insurer may be liable, and for which the insurer has discovered or received notice by or on behalf of the insured or escrow or security depositor;

(b) Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim;

(c) Reserves required pursuant to this section may be revised from time to time and shall be redetermined at least once each year;

(2) A statutory or unearned premium reserve established and maintained as follows:

(a) A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements;

(b) The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured;

(c) The unearned premium reserve shall consist of:

a. The amount of the unearned premium reserve on the effective date of sections 381.003 to 381.125; and

b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after the effective date of sections 381.003 to 381.125;

(d) Amounts placed in the unearned premium reserve in any year in accordance with paragraph (c) of subdivision (2) of this section shall be deducted in determining the net profit of the title insurer for that year;

(e) A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before the effective date of sections 381.003 to 381.125 shall be released in accordance with the law in effect immediately before the effective date of sections 381.003 to 381.125;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required pursuant to section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner, superintendent or director of the department of insurance of the state of incorporation of a foreign title insurer;

b. The actuarial certification shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The reserves analyzed pursuant to this section shall include reserves for known claims, including adverse developments on known claims, and reserves for incurred but not reported claims;

(g) a. Each domestic and foreign title insurer shall establish a supplemental reserve in the amount by which the actuarially certified reserves exceed the total of the known claim reserve and statutory premium reserve as set forth in the title insurer's annual financial report, subject to subdivision (2) of this section;

b. The supplemental reserve required pursuant to this section shall be phased in as follows:

i. Twenty-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the year next following the effective date of sections 381.003 to 381.125;

ii. Fifty percent of the otherwise applicable supplemental reserve is required until December thirty-first of the second year following the effective date of sections 381.003 to 381.125;

iii. Seventy-five percent of the otherwise applicable supplemental reserve is required until December thirty-one of the third year following the effective date of sections 381.003 to 381.125;

iv. One hundred percent of the supplemental reserve is required after December thirty-first of the fourth year following the effective date of sections 381.003 to 381.125.

381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to the title insurance act, except as otherwise provided in this section. In applying such sections, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

2. Security and escrow funds held by or on behalf of the title insurer shall not become general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

3. Title insurance policies that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

4. The court may set appropriate dates that potential claimants must file their

claims with the liquidator. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to become due under policies of the title insurers, shall be fully earned. It shall be the obligation of title agencies, title agents, insureds or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.

381.078. A title insurer shall only declare or distribute a dividend to shareholders with the prior written approval of the director, as would be permitted pursuant to subdivision (1) of subsection 1 of section 382.210, RSMo.

[381.081. 1. A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements.

2. The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured.

3. A foreign or alien title insurer licensed to transact title insurance business in this state shall maintain at least the same reserves on title insurance policies issued on properties located in this state as are required of domestic title insurers, unless the laws of the jurisdiction of domicile of the foreign or alien title insurer require a higher amount.

4. The unearned premium reserve shall consist of:

- (1) The amount of the unearned premium reserve on September 28, 1987; and
- (2) A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after September 28, 1987.

5. Amounts placed in the unearned premium reserve in any year in accordance with subdivision (2) of subsection 4 of this section shall be deducted in determining the net profit of the title insurer for that year.

6. A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the

unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before September 28, 1987, shall be released in accordance with the law in effect immediately before September 28, 1987.]

381.085. 1. A title insurer or authorized rate service organization shall not deliver or issue for delivery or permit any of its authorized title agencies or title agents to deliver in this state, any form, in connection with title insurance written, unless it has been filed with the director and approved by the director or thirty days have elapsed and it has not been disapproved as misleading or violative of public policy. Each violation of this subsection is a class C violation as that term is defined in section 381.045.

2. Forms covered by this section shall include:

- (1) Title insurance policies, including standard form endorsements; and**
- (2) Title insurance commitments issued prior to the issuance of a title insurance policy.**

3. After notice and opportunity to be heard are given to the insurer or rate service organization which submitted a form for approval, the director may withdraw approval of the form on finding that the use of the form is contrary to the legal requirements applicable at the time of withdrawal. The effective date of withdrawal of approval shall not be less than ninety days after notice of withdrawal is given.

4. Any term or condition related to an insurance coverage provided by an approved title insurance policy or any exception to the coverage, except those ascertained from a search and examination of records relating to a title or inspection or survey of a property to be insured, may only be included in the policy after the term, condition or exception has been filed with the director and approved as herein provided.

381.088. 1. A title insurer may satisfy its obligation to file premium rates, rating manuals and forms as required by this chapter by becoming a member of, or a subscriber to, a rate service organization, organized and licensed pursuant to the provisions of this chapter, where the organization makes the filings, and by authorizing the director in writing to accept the filings on the insurer's behalf.

2. Nothing in this chapter shall be construed as requiring any title insurer, title agency or title agent to become a member of, or a subscriber to, any rate service organization. Nothing in this chapter shall be construed as prohibiting the filing of deviations from rate service organization filings by any member or subscriber.

[381.091. 1. If a domestic title insurer becomes insolvent, is in the process of liquidation or dissolution, or is in the possession of the director:

(1) Such amount of the assets of such title insurer equal to the unearned premium reserve then remaining may be used by or with the written approval of the director to pay for reinsurance of the liability of such title insurer upon all outstanding title insurance policies or reinsurance agreements to the extent to which claims for losses by the holders thereof are not then pending. The balance of assets, if any, equal to the unearned premium reserve, may then be transferred to the general assets of the title insurer;

(2) The net assets of the unearned premium reserve shall be available to pay claims for losses sustained by holders of title insurance policies then pending or arising up to the time reinsurance is effected. If claims for losses exceed such other assets of the title insurer, such claims, when established, shall be paid pro rata out of the surplus assets attributable to the unearned premium reserve to the extent of such surplus, if any.

2. If reinsurance is not obtained, assets equal to the unearned premium reserve and assets constituting minimum capital, or so much as remains thereof after outstanding claims have been paid, shall constitute a trust fund to be held and invested by the director for twenty years, out of which claims of policyholders shall be paid as they arise. The balance, if any, of the trust fund shall, at the expiration of twenty years, revert to the general assets of the title insurer.]

381.092. 1. Every title insurer that shall propose its own premium rates and every title insurance rating organization shall propose premium rates that are not excessive nor inadequate for the safety and soundness of any title insurer, which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which shall give due consideration to the following matters:

- (1) The desirability for stability and responsiveness of rate structures;**
- (2) The necessity of assuring the financial solvency of title insurance companies in periods of economic depression;**
- (3) The necessity for paying dividends on the capital stock of title insurance companies sufficient to induce capital to be invested therein; and**
- (4) A reasonable level of profit for the insurer.**

2. Every title insurer that shall propose its own rates and every title insurance rating organization may adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for rates.

381.095. 1. If the director shall find in his review of rate filings that the filings provide for, result in, or produce rates that are not unreasonably high, and are not inadequate for the safeness and soundness of the insurer, and are not unfairly discriminatory between risks in this state involving essentially the same hazards and expense elements, the director shall approve such rates. Prior to such approval the

director may conduct a public hearing with respect to a rate filing. An approval shall continue in effect until the director shall issue an order of disapproval pursuant to the requirements and procedure provided for in subsections 2 and 3 of this section.

2. Upon the review at any time by the director of a rate filing, the director shall, before issuing an order of disapproval, hold a hearing upon not less than ten days' written notice, specifying in reasonable detail the matters to be considered at such hearing, to every title insurer and title insurance rating organization which made such filing, and if, after such hearing, the director finds that such filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. A title insurer or title insurance rating organization shall have the right at any time to withdraw a filing or a part thereof, subject to the provisions of section 381.102, in the case of deviation filing. Copies of the order shall be sent to every title insurer and title insurance rating organization affected. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

3. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon. The title insurance company or title insurance rating organization that made the filing shall not be authorized to proceed pursuant to this subsection. Such application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director shall find that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding such a hearing, the director shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every title insurance company and title insurance rating organization which made such a filing. If, after such hearing, the director finds that the filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that such filing or a part thereof fails to meet the requirements of this chapter, stating when within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such title insurer and title insurance rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

381.098. 1. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the director for license as a rating organization for title insurers, and shall file therewith:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;

(2) A list of its members and subscribers;

(3) The name and address of a resident of this state upon whom notices or orders of the director or process affecting such rating organization may be served; and

(4) A statement of its qualifications as a title insurance rating organization.

2. If the director finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization, and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, conform to requirements of law, the director shall issue a license authorizing the applicant to act as a rating organization for title insurance. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the director or withdrawn by the licensee. The fee for such license shall be one thousand five hundred dollars. Licenses issued pursuant to this section may be suspended or revoked by the director, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the director promptly of every change in:

(1) Its constitution, its articles of agreement or association or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business;

(2) Its list of members and subscribers; and

(3) The name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting such rating organization may be served.

3. Subject to rules and regulations which have been approved by the director as reasonable, each title insurance rating organization shall permit any title insurance company not a member to be a subscriber to its rating services. Notices of proposed changes in such rules and regulations shall be given to subscribers. Each such rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any such rating organization to admit a title insurance company as a subscriber, shall at the request of any subscriber or any such title insurance company, be reviewed by the director at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber. If the director finds that such rule or regulation is unreasonable in its application to subscribers, the

director shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an application of a title insurance company for subscribership within thirty days after it was made, the title insurance company may request a review by the director as if the application had been rejected. If the director finds that the title insurance company has been refused admittance to the title insurance rating organization as a subscriber without justification, the director shall order such rating organization to admit the title insurance company as a subscriber. If the director finds that the action of the title insurance rating organization was justified, the director shall make an order affirming its action.

[381.101. 1. All title insurers licensed in this state shall establish and maintain reserves against unpaid losses and loss expenses.

2. Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim.

3. Reserves required under this section may be revised from time to time and shall be redetermined at least once each year.]

381.102. Every member of or subscriber to a title insurance rating organization shall adhere to the filings made on its behalf by such organization, except that any title insurance company which is a member of or subscriber to such a rating organization may file with the director a uniform percentage of decrease or increase to be applied to any or all elements of the fees produced by the rating system so filed for a class of title insurance which is found by the director to be a proper rating unit for the application of such uniform decrease or increase, or to be applied to the rates for a particular area, or otherwise deviate from the rating plans, policy forms or other matters which are the subject of filings pursuant to this chapter. Such deviation filing shall specify the basis for the modification and shall be accompanied by the data or historical pattern upon which the applicant relies. A copy of the deviation filing and data shall be sent simultaneously to such rating organization. Deviation filings shall be subject to the provisions of section 381.095.

381.105. 1. Any member of or subscriber to a title insurance rating organization may appeal to the director from any action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization, and the director shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order

approving the action or decision of such rating organization or directing it to give further consideration to such proposal and to take action or make a decision upon it within thirty days. If such appeal is from the action or decision of the title insurance rating organization in rejecting a proposed addition to its filings, the director may, in the event the director finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the director's findings, within a reasonable time after the issuance of such order. If the appeal is from the action of the title insurance rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, the director shall approve the action of the rating organization or such modification thereof as shall have been suggested by the appellant if either be made in accordance with this chapter.

2. The failure of a title insurance rating organization to take action or make a decision within thirty days after submission to it of a proposal pursuant to this section shall constitute a rejection of such proposal within the meaning of this section. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense allocation which differs from the system of expense allocation included in a filing made by such rating organization, the director shall, if the director grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal, the director shall apply the standards set forth in section 381.032.

381.108. 1. The director shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with the department, which may be modified from time to time, and which shall be used thereafter by each title insurer, in the recording and reporting of the composition of its business, its loss and countrywide expense experience and those of its title insurance underwriters in order that the experience of all title insurer may be made available, at least annually, in such form and detail as may be necessary to aid him or her in determining whether rating systems comply with the standards set forth in this chapter. Such rules and plans may also provide for the recording of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the director shall give due consideration to the rating systems on file with the department, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. Such rules and plans shall not place an unreasonable burden of expense on any

title insurer. No title insurer shall be required to record or report its expense and loss experience on a classification basis that is inconsistent with the rating system filed by it, nor shall any title insurer be required to report the experience to any agency of which it is not a member or subscriber. The director may designate one or more rating organizations or other agencies to assist the director in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the director, to title insurers and rating organizations. The director shall give preference in such designation to entities organized by and functioning on behalf of title insurers operating in this state. If the director, in his or her judgment, determines that one or more of such organizations designated as statistical agent is unable or unwilling to perform its statistical functions according to reasonable requirements established from time to time by the director, he or she may, after consultation with such statistical agent and upon twenty days' notice to any affected companies, designate another person to act on the director's behalf in the gathering of statistical experience. The director shall in such case establish the fee to be paid to such designated person by the affected companies in order to pay the total cost of gathering and compiling such experience. Agencies designated by the director shall assist the director in making compilations of the reported data and such compilations shall be made available, subject to reasonable rules and regulations promulgated by the director, to insurers, rating organizations and any other interested parties.

2. Reasonable rules and plans may be promulgated by the director for the interchange of data necessary for the application of rating plans.

3. In order to further uniform administration of rate regulatory laws, the director and every title insurer and rating organization may exchange information and experience data with insurance supervisory officials, title insurers and rating organizations in other states, and may consult with them with respect to rate making and the application of rating systems.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[381.111. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on properties located in this state may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus

of at least eight hundred thousand dollars.]

381.112. For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall mean the amount of premium actually remitted to the title insurer and shall exclude any amount of premium retained by the title agent within the definition of "premium" contained in section 381.009.

381.115. 1. A person shall not act in the capacity of a title agency or title agent and a title insurer may not contract with any person to act in the capacity of a title agency or title agent with respect to risks located in this state unless the person is a licensed title agency or title agent in this state.

2. An individual employed by a licensed title agency or title agent to whom the agency or agent delegates authority to act on that agency's or agent's behalf shall be either individually licensed or be named on the employing agent's license if such employee performs any of the functions defined in paragraph (a) of subdivision (25) of section 381.009. Each person named on the license shall possess all qualifications determined by the director to be appropriate. The director may adopt rules, regulations, and requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents, employees of either, and persons acting on behalf of title agencies or title agents. This subsection is not intended to include persons performing clerical functions.

3. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business any information the title insurer requests in order to comply with reporting requirements of the director.

4. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

5. If the title agency or title agent delegates the title search to a third party, such as an abstract company, the agency or agent must first obtain proof that the third party is operating in compliance with rules and regulations established by the director and the third party shall provide the agency or agent and the insurer with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period. Each violation of this subsection is a class C violation as that term is defined

in section 381.045.

381.118. 1. Each title agent licensed to sell title insurance in this state, unless exempt pursuant to subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January first of the year next following the effective date of this chapter.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(2) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized agents' association or insurance trade association. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

6. Every person subject to the provisions of this section shall furnish in a form

satisfactory to the director, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person. A filing fee shall be paid by the person furnishing the report as determined by the director to be necessary to cover the administrative cost related to the handling of such certification reports, subject to the limitations imposed in subsection 9 of this section.

7. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as a title agent in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to the title agents. However, those natural persons holding or applying for a Missouri agent license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri title agents.

8. Rules necessary to implement and administer this section shall be promulgated by the director of the department of insurance, including, but not limited to, rules regarding the following:

(1) The insurance advisory board established by section 375.019, RSMo, shall be utilized by the director to assist the director in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Every applicant seeking approval by the director of a continuing education course pursuant to this section shall pay to the director a filing fee of fifty dollars per course, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be waived for local agents' groups if the instructor receives no compensation for services. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval;

(3) The director has the authority to determine the amount of the filing fee to be paid by title agents at the time of license renewal, which shall be set at an amount to produce revenue which shall not substantially exceed the cost of administering this section, but in no event shall such fee exceed ten dollars per biennial report filed.

9. All funds received pursuant to the provisions of this section shall be transmitted by the director of the department of insurance to the department of revenue for deposit in the state treasury to the credit of the department of insurance dedicated fund. All expenditures necessitated by this section shall be paid from funds appropriated from the department of insurance dedicated fund by the legislature.

10. When a title agent pays his or her biennial renewal fee, such agent shall also furnish the written certification and filing fee required by this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[381.121. 1. The deposit required by section 381.051 and the capital, surplus and unearned premium reserve of domestic title insurers shall be held in either cash or investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus for reserve deposit.

2. A domestic title insurer may invest in title plants. For purposes of determining the financial condition of such title insurer, title plants will be treated as an asset valued at actual cost to the title insurer, not to exceed fifty percent of the surplus as to policyholders as shown on the most recent annual statement of the title insurer.

3. Any investment of a domestic title insurer acquired before September 28, 1987, and which under such sections, would be considered ineligible as an investment on that date, shall be disposed of within five years of September 28, 1987. The director, upon application and proof that forced sale of any such investment would be contrary to the best interests of the title insurer or its policyholders, may extend the period for disposal of the investment for a reasonable time.]

381.122. The director may during normal business hours examine, audit and inspect any and all books and records maintained by a title agency pursuant to this chapter.

381.125. 1. Whenever the business to be written constitutes affiliated business, prior to commencing the transaction, the title agency or title agent shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title agency or agent.

2. The director may establish rules for use by all title agencies in the recording and reporting of the agency's owners and of the agency's ownership interests in other persons or businesses and of material transactions between the parties.

3. The director may require each title agency to file on forms prescribed by the director reports setting forth the names and addresses of those persons, if any, that have a financial interest in the agency and who the agency knows or has reason to believe are producers of title insurance business or associates of producers.

4. Nothing in this chapter shall be construed as prohibiting affiliated business arrangements in the provision of title insurance business so long as:

(1) The title agency, title agent or party making a referral constituting affiliated business, at or prior to the time of the referral, discloses the arrangement and, in connection with the referral, provides the person being referred with a written estimate

of the charge or range of charges likely to be assessed and otherwise complies with the disclosure obligations of this section;

(2) The person being referred is not required to use a specified title insurance agency, agent or insurer; and

(3) The only thing of value that is received by the title agency, title agent or party making the referral, other than payments otherwise permitted, is a return on an ownership interest. For purposes of this subsection, the terms "required use" and "return on an ownership interest" shall have the meaning accorded to them under the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2607, as amended and Regulation X, 24 C.F.R. Section 3500, et seq.

5. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.

[381.131. Any person who shall be appointed or who shall act as title insurance agent or agency for any title insurance company within this state, or who shall, as title insurance agent or agency, solicit applications, deliver policies and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, as agent or agency, for a title insurance company doing business in this state, shall be held responsible in a trust or fiduciary capacity to the company for any money so collected or received by him for such company.]

[381.141. 1. No title insurer or title agent or agency shall:

(1) Pay, directly or indirectly, to the insured or to any other person any commission, any part of its premiums, fees, or other charges; or any other consideration as inducement or compensation for the referral of title business or for performance of any escrow or other service by the title agent or agency; or

(2) Issue any title insurance policy or perform any service in connection with any transaction in which it has paid or intends to pay any commission, rebate or inducement which it knows to be in violation of this section.

2. Nothing in this section shall be construed as prohibiting reasonable payments, other than for the referral of title insurance business, for services actually rendered to either a title insurer or a title agent or agency in connection with title insurance business.

3. Nothing in sections 381.011 to 381.241 shall prohibit any producer or any associate of a producer from referring title business to any title insurer or title insurance agent or agency of his, her or its choice, and if such producer or associate producer has any financial, franchise, or ownership interest in the title insurer, the title insurance agent or agency, from receiving income or profits produced or realized from such financial, franchise or ownership interest so long as the purchaser is made aware in writing of the relationship between the producer or associate producer and the title agent or agency.]

[381.151. Nothing in sections 381.011 to 381.241 shall be construed as prohibiting the division of premiums and charges between or among a title insurer and its title agent or agency, two or more title insurers, one or more title insurers and one or more title agents or agencies or two or more title agents or agencies, provided such division of premiums and charges does not constitute:

(1) An unlawful rebate or inducement under the provisions of sections 381.011 to 381.241; or

(2) Payment of a forwarding fee or finder's fee.]

[381.161. 1. No producer or other person, except the person paying the premium for the title insurance, shall require, directly or indirectly, or through any trustee, director, officer, agent, employee, or affiliate, as a condition, agreement, or understanding to selling or furnishing any other person any loan, or extension thereof, credit, sale, property, contract, lease or service, that such other person shall place, any contract of title insurance of any kind through any particular title agent, agency, or title insurer. No title agent, agency, or title insurer shall knowingly participate in any such prohibited plan or transaction. No person shall fix a price charged for such thing or service, or discount from or rebate upon price, on the condition, agreement, or understanding that any title insurance is to be obtained through a particular agent, agency, or title insurer.

2. Any person who violates the provisions of this section, or any title insurer, title agent, or agency who accepts an order for title insurance knowing that it is in violation of the provision of this section shall, in addition to any other action which may be taken by the director, be subject to a fine in an amount equal to five times the premium for the title insurance.]

[381.171. 1. Premiums shall not be inadequate, excessive or unfairly discriminatory.

2. Premiums are excessive if, in the aggregate, they are likely to produce a long run profit that is unreasonably high in relation to the riskiness of the business or if expenses are unreasonably high in relation to the services rendered.

3. Premiums are inadequate if they are clearly insufficient, together with investment income attributable to them, to sustain projected losses and expenses or if continued use of such premiums will have the effect of substantially lessening competition or the effect of tending to create a monopoly.

4. Premiums are unfairly discriminatory if the premium charged for a policy of any particular face amount of liability is higher than the premium for an identical policy within the same classification where such policy has a like face amount or a higher face amount of liability. Premiums within each premium classification may, in the discretion of the title insurer, to a reasonable degree be less than the expenses incurred and the risks assumed

in the case of policies of lower face amount of liability and the excess may be charged against policies of higher face amount of liability without rendering the premiums unfairly discriminatory.

5. Premiums may be grouped by classifications into the various types of title policies and endorsements offered. The classifications may be further divided to produce premiums for individual risks or services within a classification. Those classifications or further divisions may be established based upon any one or more of the following:

(1) The size of a transaction and its effect upon the continuing solvency of the title insurer using the rate in question if a loss should occur;

(2) Expense elements, including management time that would ordinarily be expended in a typical transaction of a particular size;

(3) The geographic location of a transaction, including variation in risk and expense elements attributable thereto;

(4) The individual experience of the insurer and title insurance agent or agency using the rate in question; and

(5) Any other reasonable considerations which may include but not be limited to builder/developer quantity discounts and multiple policy discounts on an individual parcel of property. Those classifications or further divisions thereof shall apply to all risks and services in the business of title insurance under the same or under substantially the same circumstances or conditions.

6. In making or reviewing premiums due consideration shall be given to past and prospective loss experience, to exposure to loss, to underwriting practice and judgment, to past and prospective expenses including amounts paid to or retained by title agents or agencies, to a reasonable margin for profit and contingencies taking into account the need for a reasonable return on capital committed to the enterprise, and to all other relevant factors both within and outside of this state.

7. The director may promulgate rules or regulations setting forth guidelines for the evaluation of premiums. Such regulations may include consideration of:

(1) Cost of underwriting risks assumed by the insurer;

(2) Amounts paid to or retained by title agents;

(3) Operating expenses of the insurer other than underwriting and claims expense;

(4) Payment of claims and claim related expenses;

(5) Investment income;

(6) Reasonable profit;

(7) Premium taxes; and

(8) Any other factors the director deems relevant.]

[381.181. 1. Every title insurer shall file with the director its premium schedules

it proposes to use in any county of this state. Every filing shall set forth its effective date, which shall not be earlier than the thirtieth day following its receipt by the director, and shall indicate the character and extent of the coverages and services contemplated. Filings that the director has not disapproved within thirty days of filing shall be deemed effective.

2. No title insurer or title agent or agency may use or collect any premium after September 28, 1987, except in accordance with the premium schedules filed with the director as required by subsections 1 and 2 of this section. The director may provide by regulation for interim use of premium schedules in effect prior to September 28, 1987.

3. Every title insurer shall establish basic classifications of coverages to be used as the basis for determining premiums.】

【381.191. In order to further uniform administration of rate regulatory laws, the director and every title insurer, title agent, or agency in the state may exchange information and experience data with insurance supervisory officials of this and other states and rating organizations in other states and may consult with them with respect to such information and data.】

【381.201. 1. No title insurer, title agent, or agency shall use any premium in the business of title insurance prior to its effective date nor prior to the filing with respect to such premium having been publicly displayed and made readily available to the public for a period of not less than thirty days in each office of the title insurer, title agent, or agency in the county to which such rates apply, and no premium increase shall apply to title policies which have been contracted for prior to such effective date.

2. Premium charges in excess of those set forth in a premium filing which has become effective may be made when such filing includes a statement that such premiums may be made in the event unusual insurance risks are assumed or unusual services performed in the transaction of the business of title insurance, provided that such premiums are reasonably commensurate with the risks assumed for the costs of the services performed.

3. Copies of the schedules of premiums which are required to be filed with the director under the provisions of sections 381.011 to 381.241, showing their effective date or dates, shall be kept at all times available to the public and prominently displayed in a public place in each office of a title insurer, title agent, or agency in the county to which such rates apply while such rates are effective.】

【381.211. Every title insurer shall file with the director copies of the following forms it proposes to use in this state, including:

- (1) Title insurance policies;
- (2) Standard form endorsements; and
- (3) Preliminary reports, commitments, binders, or any other reports issued prior to the issuance of a title insurance policy.】

[381.221. For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall be one hundred percent of the amounts paid by or on behalf of the insured as "premiums" within the definition of that term contained in sections 381.011 to 381.241.]

[381.231. In addition to any other powers granted under sections 381.011 to 381.241, the director may adopt rules or regulations to protect the interests of the public including, but not limited to, regulations governing sales practices, escrow, collection, settlement, closing procedures, policy coverage standards, rebates and inducements, controlled business, the approval of agency contracts, unfair trade practices and fraud, statistical plans for data collection, consumer education, any other consumer matters, the business of title insurance, or any regulations otherwise implementing or interpreting the provisions of sections 381.011 to 381.241. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[381.241. 1. The director of insurance or his duly authorized representative may at any time and from time to time, inspect and examine the records, books and accounts of any title insurer, and may require such periodic and special reports from any title insurer, as may be reasonably necessary to enable the director to satisfy himself that such title insurer is complying with the requirements of sections 381.011 to 381.241. No person shall be authorized to inspect and examine the records, books and accounts of any title insurer unless such person has five years experience in the title insurance business. It shall be the duty of the director at least once every four years to make or cause to be made an examination of every title insurer. The reasonable expense of any examination shall be paid by the title insurer.

2. The purpose of such examination is to enable the director to ascertain whether there is compliance with the provisions of sections 381.011 to 381.241. If as a result of such examination the director has reason to believe that any rate, rating plan or rating system made or used by an insurer does not meet the standards and provisions of sections 381.011 to 381.241, applicable to it, the director may hold a public hearing. Within a reasonable period of time, which shall be not less than ten days before the date of such hearing, he shall mail written notice specifying the matters to be considered at such hearing to every person, insurer or organization believed by him not to be in compliance with the provisions of sections 381.011 to 381.241.

3. If the director, after such hearing, for good cause finds that such rate, rating plan or rating system does not meet the provisions of sections 381.011 to 381.241, he shall issue an order specifying in what respects any such rate, rating plan or rating system fails to meet such provisions, and stating when, within a reasonable period of time, the further use

of such rate, rating plan or rating system by the title insurer which is the subject of the examination shall be prohibited. A copy of such order shall be sent to such title insurer.】

381.410. As used in sections 381.410 and 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", U.S. currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, unless the settlement agent's primary regulator is another division in the department of economic development. When the settlement agent is regulated by such division, that division shall have jurisdiction over sections 381.410 and 381.412;

(4) "Financial institution":

(a) A person or entity doing business [under] **pursuant to** the laws of this state or the United States relating to banks, trust companies, savings and loan associations[,] **or** credit unions[, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed pursuant to the Small Business Investment Act of 1958 (15 U.S.C. Section 661, et seq.), as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System pursuant to the Farm Credit Act of 1971 (12 U.S.C. Section 2000, et seq.), as amended, or any person which services loans secured by liens or mortgages on real property, which person may or may not maintain a servicing portfolio for such loans]; or

(b) The following persons or entities if their principal place of business is in Missouri or [a state which is contiguous to] **outside** Missouri, **but within the St. Louis or Kansas City standard metropolitan statistical area:**

a. A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer; [or

b. A person or entity acting as a mortgage loan company pursuant to court order;]

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial

institution, or a member in good standing of the Missouri Bar [Association], or a person licensed under chapter 339, RSMo.

381.412. 1. A settlement agent who accepts funds of more than ten thousand dollars[, but less than two million dollars,] for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. [The settlement agent shall record all security instruments for such real estate closing within three business days of such closing after receipt of such certified funds.] A check:

(1) Drawn on an escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo;

(2) Drawn on an escrow account of a title insurer or title insurance agency licensed to do business in Missouri;

(3) Drawn on an agency of the United States of America, the state of Missouri or any county or municipality of the state of Missouri; or

(4) Drawn on an account by a financial institution;

shall be exempt from the provisions of this section.

2. No title insurer, title insurance agency or title insurance agent, as defined in section [381.031] **381.009**, shall make any payment, disbursement or withdrawal in excess of ten thousand dollars from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement or withdrawal;

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. If the director finds that a settlement agent, title insurer, title insurance agency or title insurance agent has violated any provisions of this section, the director may assess a fine of not more than two thousand dollars for each violation, plus the costs of the investigation. Each separate transaction where certified funds are required shall constitute a separate violation. In determining a fine, the director shall consider the extent to which the violation was a knowing and willful violation, the corrective action taken by the settlement agent to ensure that the violation will not be repeated, and the record of the settlement agent in complying with the provisions of this section.

Section E. The provisions of section D of this act shall become effective January 1, 2001.